

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1262

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

No. 77-1262

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

- against -

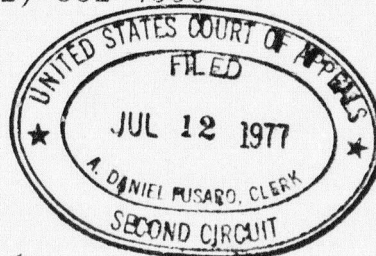
THEODORE G. DALEY,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPELLANT'S APPENDIX
Vol. I pp. A-1 to A-232

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A-1

XXXXXX

0849

DALEY, THEODORE G.

08 03 76 0708 01

01

x 0208 1

18:1951
29:186(b)(1)(d)

Hobbs Act Extortion.
Demand, receipt & acceptance of things
of value, prohibited by Labor Statute.

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3-7

x

8-3-76

8-3-76

8-12-76

x

2-22-77

x

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x

3-10-77

US District Court
Southern District of New York
Case No. 100-10000
Filed 10/10/76
100-10000-10000

Joseph Jaffee
791-9008

Gistave Newmann
522 Fifth Ave., NYC 10036 MU 2 4066

- 1119

- 8-3-76 Filed indictment.
- 8-12-76 Filed Certification of the United States Attorney.
Deft. (Atty. present) enters a not guilty plea. Case assigned to Judge Lasker
for all purposes. Deft. ordered fingerprinted and photographed. Deft. R.O. R
Goettel, J.
- 8-17-76 Filed Notice of Appearance by Gustave H. Newman.
- 10-1-76 Motion for further particulars and supporting affidavits for granting
discovery of certain particulars.
- 10-1-76 Motion for further particulars and supporting affidavits for granting
discovery of certain particulars.
- 12-22-76 Filed govts. Memorandum of Law.
- 12-22-76 Filed Govts. Affidvt. in opposition to defts. motion for further particulars.
- 2-14-77 Filed Memo. End. on motion dtd. 12-1-76. Deposed of in accordance with conference
in chambers Jan. 13, 1977.....Lasker J.

3/4/77 Filed One Sealed Envelope. Pages 1259 through 1269 Transcript
3/4/77 Sealed & Impounded by order of the Judge Lasker.
Judge Lasker. (Placed in the Casler's vault)

2-22-77 Dft. Pres. w/atty Gustave Newman U.S. Atty. Frank Wo'l present
jury selected. Trial begun

2-23-77 Trial Cont'd

2-24-77 " "

2-28-77 " "

3-1-77 " "

3-2-77 " "

3-3-77 " "

3-4-77 " "

3-7-77 " "

3-8-77 " "

3-9-77 " "

3-10-77 Trial Cont'd Dft. Found Guilty on all counts 1 thru 7 incl.
Dft. cont'd on R.O.R. & Sentence set for April 22, 1977 @
10 am.....Lasker J.

3/17/77 Filed Order that the Chief Jury Clerk, USDC, SDNY release the
names & addresses of the jurors, empaneled for trial in this
case.....Lasker J.

4-6-77 Filed transcript of record of proceedings, notes 3-2, 23, 24, 25, 1977

4-6-77 Filed transcript of record of proceedings, notes 3-9-77

4-6-77 Filed transcript of record of proceedings, notes 3-2, 3, 4, 7, 8, 1977

4-29-77 Filed Dfts. Notice of Motion to Set Aside Verdict. Ret. 5/6/77.

4-29-77 Filed Dfts. Memorandum of Law.

5-5-77 Filed Dfts. pre-sentence memorandum.

5-13-77 Filed Dfts. Notice of Appeal from Judgment ent. 5/6/77.
(mn)

5-6-77 Filed Judgment & Commitment (Atty. Gustave Newman present) # 12635
The Dft. is hereby committed to the custody of the atty. gen
or his authorize representative for imprisonment for a period
of Imposition of sentence of imprisonment is suspended on
counts 1 through 7 and the dft. is placed on probation for a
period of THREE (3) YEARS subject to the standing probation
order of this court & to the following special conditions:
1.1. That within ninety days the dft. deliver to the court in
writing a plan to be prepared by him for the purpose of
protecting the members of Local 445, International Brotherhood
of Teamsters from the exertion of pressure or influence or
solicitation upon them by the elected or appointed officers, &

Cont'd on next page.

UNITED STATES DISTRICT COURT
CRIMINAL DOCKET

U. S. vs

THEODORE G. DALEY

Yr. 76

Docket No. 708

Def. 0

DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
	(Document No.)				
5-6-77	(Judgment cont'd) and in particular, the principal officer of said union & minimizing or elimination of such influence, pressure or solicitation, including, if appropriate, proposals for amendment to the constitution or other governing instruments of local 445. 2. That in connection with the payment of the fines hereinafter imposed, the dft. shall not directly or indirectly solicit, request or accept from any member of Local 445 International Brotherhood of Teamsters any sum of money or things of value. The dft. is further fined the sum of FIVE THOUSAND DOLLARS (\$5,000.) on Counts 3, 4, 5, 6 & 7 for a Total of TWENTY FINE THOUSAND DOLLARS (\$25,000.) TO BE paid within NINETY DAYS to be paid within NINETY DAYS hereafter. This a committed fine.....Lasker J. Issued Comittment 5-17-77				
6-6-77	Filed certification and transmittal of original record to the USCA of the 2nd Circuit.				

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
UNITED STATES OF AMERICA,

- v -

THEODORE G. DALEY,

Defendant.

:

:

:

:

INDICTMENT

76 Cr. 708

-----x

COUNT ONE

The Grand Jury charges:

1. From in and around June 1971, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, THEODORE G. DALEY, the defendant, and Anthony Alecca, Jr. and Thomas Clausi, named herein as co-conspirators, but not as defendants, unlawfully, wilfully and knowingly, did combine, conspire, confederate and agree together and with each other, and with others to the Grand Jury known and unknown, to obstruct, delay and affect, and attempt to obstruct, delay and affect commerce and the movement of articles and commodities in commerce, by means of extortion, in violation of Title 18, United States Code, Section 1951.

2. It was a part of said conspiracy that the defendant THEODORE G. DALEY, who was then the Secretary-Treasurer and principal officer of Local 445 of the International Brotherhood of Teamsters (Local 445) and his co-conspirators, including, among others, Anthony Alecca, Jr. and Thomas Clausi,

who were at all times relevant to this Indictment, officers and employees of Local 445, would and did obtain and attempt to obtain articles, commodities, goods and services and other things of value from employers whose employees were members of and were represented by Local 445 and from employees of said employers, who were or who were attempting to become members of Local 445, with the consent of said employers and employees, such consent to be induced by the wrongful actual and threatened use of fear of financial and economic injury to said employers and employees.

3. It was further a part of said conspiracy that the defendant THEODORE G. DALEY and his co-conspirators, who at all times relevant to this Indictment were aware that Local 445 operated as a hiring hall for members of Local 445 within its area of jurisdiction, and in effect controlled the distribution of work assignments for union jobs to drivers and driver-owners in that area, would and did obtain and attempt to obtain articles, commodities, goods and services and other things of value from the employers and employees referred to in Paragraph 2 of Count One of this Indictment, by virtue of and through the misuse of their union positions in Local 445 and by the use of express and implied threats of economic and financial injury to the said employers and employees.

4. Among the means used to achieve the objects of said conspiracy were the following:

a) The defendant THEODORE G. DALEY would and did obtain, attempt to obtain, and cause to be obtained three-eights inch stone, wooden beams and other things of value and the services of trucks and truck drivers from the employers and employees referred to in Paragraph 2 of Count One of this Indictment without paying for such property, services and things of value which were used for the sole and personal benefit of the defendant THEODORE G. DALEY, by virtue of his position in Local 445.

b) The defendant THEODORE G. DALEY would and did cause co-conspirators Anthony Alecca, Jr. and Thomas Clausi, and others, through and by virtue of his and their positions as officers and employees of Local 445, to impose upon and cause employers whose employees were members of and were represented by Local 445 and employees who were or were attempting to become members of Local 445 to furnish articles, commodities, goods and services and other things of value to and for the sole and personal benefit of the defendant THEODORE G. DALEY, by virtue of his position in Local 445.

OVERT ACTS OF THE CONSPIRACY

5. In furtherance of and to effect the objects of said conspiracy, the defendant THEODORE G. DALEY and his co-conspirators committed and caused to be committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a) In or about June, 1971, the defendant THEODORE G. DALEY spoke with co-conspirator Thomas Clausi about obtaining wooden beams to be used at the defendant's property at Windham, New York;

b) In or around the Summer of 1971, the defendant THEODORE G. DALEY spoke with co-conspirator Anthony Alecca, Jr. about obtaining stone to be used at the defendant's property at Windham, New York;

c) In or around August, 1971, and prior to September 4, 1971, co-conspirator Anthony Alecca, Jr. spoke with Robert Greene, General Manager of the Hudson Cement Plant located in Kingston, New York, about obtaining property from Hudson Cement Company;

d) In or around September 4, 1971, co-conspirator Thomas Clausi had a conversation with Thomas Turco, Plant Supervisor of the Hudson Cement Plant, about obtaining property from Hudson Cement to be given to the defendant THEODORE G. DALEY;

e) On or about September 4, 1971, co-conspirator Thomas Clausi spoke with Robert Kozlowski and Michael Spada, Sr. about obtaining trucks to be filled with stone, to be driven from the Hudson Cement Company plant in Kingston, New York, to a house owned by the defendant THEODORE G. DALEY in Windham, New York;

f) On or about September 4, 1971, co-conspirator Thomas Clausi supervised the loading of crushed stone on to trucks at the Hudson Cement Company plant, East Kingston, New York;

g) On or about September 5, 1971, the defendant THEODORE G. DALEY spoke with co-conspirator Thomas Clausi about obtaining more stone, truck drivers and trucks;

h) On or about September 5, 1971, co-conspirator Thomas Clausi had a conversation with Thomas Turco, Plant Supervisor of the Hudson Cement Plant, about obtaining additional property from Hudson Cement to be given to the defendant THEODORE G. DALEY;

i) On or about September 5, 1971, co-conspirator Thomas Clausi spoke with Robert Kozlowski and with Michael Spada, Jr. about obtaining trucks to be filled with stone to be driven from the Hudson Cement Company plant in Kingston, New York, to the defendant THEODORE G. DALEY's property at Windham, New York;

j) On or about September 11, 1971, co-conspirator Thomas Clausi spoke to Robert Kozlowski and to Michael Spada, Jr. about obtaining trucks to be filled with stone to be driven from the Hudson Cement Company plant to the defendant THEODORE G. DALEY's property in Windham, New York;

k) In or about October, 1971, co-conspirator Thomas Clausi spoke with John Callanan, foreman for Callanan Industries, Inc., a company then under contract with Local 445, about obtaining 12" by 12" beams which were used for traffic control on a road project on the New York State Thruway;

1) In or about October, 1971, co-conspirator Thomas Clausi spoke with Robert Kozlowski about driving a truck filled with beams from the Callanan road job to Windham, New York;

m) In or about October, 1971, co-conspirator Thomas Clausi spoke with Robert Kozlowski about driving a truck filled with wooden beams from the Maggiola Construction Company, Pearl River, New York, to Windham, New York.

(Title 18, United States Code, Section 1951).

COUNT TWO

The Grand Jury further charges:

1. The allegations contained in Count One of this Indictment are repeated and realleged as though fully set forth herein.

2. From in and around June, 1971, and continuing thereafter, up to and including the date of the filing of this Indictment, in the Southern District of New York, THEODORE G. DALEY, the defendant, unlawfully, wilfully and knowingly did obstruct, delay and affect and attempt to obstruct, delay and affect commerce and the movement of articles and commodities in commerce, by extortion, that is, by the obtaining of property, articles, commodities, goods and services and other things of value from the Hudson Cement Company, Inc., Robert Kozlowski, Michael Spada, Sr., Callanan Industries, Incorporated, Maggiola Construction Company, and

from employees of the aforesaid, with their consent, induced by the wrongful use of actual and threatened fear of financial and economic injury.

(Title 18, United States Code, Section 1951.)

COUNTS THREE THROUGH SEVEN

The Grand Jury further charges:

On or about the approximate dates set forth in Counts Three through Seven, below, in the Southern District of New York, THEODORE G. DALEY, the defendant, being then the Secretary-Treasurer and principal union officer of Local 445 and being then a representative of employees who were employed by employers in an industry affecting commerce and being then an officer and employee of a labor organization which then represented and would and did admit to membership employees of the employers listed below, which employees were employed in industries affecting commerce, unlawfully, wilfully and knowingly did request, demand, receive, accept and agree to receive and accept from said employers the goods, services and other things of value as set forth below:

<u>COUNT</u>	<u>DATE</u>	<u>EMPLOYER</u>	<u>THING OF VALUE</u>
3	September 4, 5, 11, 1971	Hudson Cement Company, Inc.	3/8" crushed stone
4	September 4, 5, 11, 1971	Robert Kozlowski	Dump trucks, driver and fuel
5	September 4, 5, 11, 1971	Michael Spada, Sr.	Dump trucks, driver and fuel
6	October, 1971	Callanan Indus- tries, Inc.	Wooden beams

<u>COUNT</u>	<u>DATE</u>	<u>EMPLOYER</u>	<u>THING OF VALUE</u>
7	October, 1971	Maggiola Construc- tion Company	Wooden beams
	(Title 29, United States Code, Section 186(b)(1), (d).)		

FOREMAN

ROBERT B. FISKE, JR.
United States Attorney

Tk 2A

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gwb-1

Alecca-direct

38

2

Q During what period of time?

3

A I was a business agent from '63 or '62 until

4

'73 -- '63 until '73.

5

Q Could you tell us what your duties were as a busi

6

ness agent?

7

A As a business agent, my duties were to repre-

8

sent a particular area designated by the principal officer

9

or the executive board and to administer contracts,

10

negotiate contracts with employees to work, handle griev-

11

ances and whatever duties were doled out by the principal

12

officer.

13

Q And how did you become a business agent?

14

A By appointment.

15

Q And throughout the period that you were a

16

member of the union, were business agents appointed?

17

A Pardon.

18

Q Was that the normal way by which a business

19

agent became a business agent during the time you were a

20

member of Local 445?

21

A If there was an opening, normally he would be

22

elected.

23

Q You mentioned principal officer. Who was the

24

principal officer of Local 445 while you were a member of

25

Local 445?

gwb-2 Alecca-direct

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A Secretary-treasurer, Theodore G.Daley.

Q Do you recognize Mr.Daley in court?

A Yes, I do.

Q Would you point to him, please?

A The gentleman sitting at the first table there.

Q Describe what he is wearing?

A A blue suit, a red tie, a maroon tie with white stripe into it.

MR. WOHL: May the record reflect the witness has correctly identified the defendant, your Honor?

THE COURT: Yes.

Q Was Mr.Daley the secretary-treasurer of Local 445 during the entire time that you were with Local 445?

A Yes, he was.

Q Do you know what the duties of secretary-treasurer of Local 445 were during that period?

A Yes.

Q Would you tell us what those were?

A He was the principal officer that supervised over the local union, supervised the duties of all officers and agents, approved all contracts, all communications going out of the local union, got all the communications that was brought into the local union, made his reports

1 gwb-3

Alecca-direct

40 A-14

2 to the executive board of Local 445. He was the chief
3 officer.

4 Q And what was the number two position of Local
5 445 while you were with it?

6 A I would have to say president.

7 Q Could you tell us what the jurisdiction of
8 Local 445 was in 1971?

9 A The jurisdiction of Local 445 was the counties of
10 Westchester, Putnam, Dutchess, Rockland, Orange, Ulster,
11 Sullivan Counties, State of New York.

12 Q And what types of jobs were within the employ-
13 ment jurisdiction of Local 445?

14 A We had general freight, construction, furniture,
15 cement plants, brickyards, industries such as Star Expansion
16 and A & W out of Port Jervis, New York, and various other
17 industries. School bus drivers.

18 Q These would all be generally within the occupa-
19 tion of driving a motor vehicle of some kind, is that correct

20 A Driving a motor vehicle or other incidentals
21 in the factories that I described.

22 Q Local 445 was a local of the International
23 Teamsters Union, is that right?

24 A That's right.
25

Q And in 1971, did the International have a headquarters?

A Yes, they did.

Q And where were the headquarters located?

A Washington, D.C.

Q Could you tell us whether there were ordinary or routine dealings between Local 445 and the International Union?

A I would say yes, there was routine business.

Q Could you tell us what those routine dealings between the International and the Local consisted of?

A We had our dealings as far as 445 in the International would be paying dues or per capita tax to the International.

Q How often were those dues or per capita taxes paid to the International?

A Monthly.

Q Was that true during 1971?

A Yes, sir.

Q And could you tell us just briefly how the dues and per capita tax were collected by Local 445?

A The dues were collected by the business agent or by mail into the offices of Local 445. The per capita tax was paid out of the treasury of Local 445.

gwb-5

Alecca-direct

42 A-16

Q And could you tell us how the amounts of those payments -- withdrawn.

Were these payments made by the members of Local 445?

A The amounts?

Q Yes.

A They were prescribed by the conventions that are held by the International.

Q I see. And the payments were made first by members to Local 445, is that right?

A Yes.

Q And then Local 445 transmitted the money to the International?

A That's right.

Q Do you know in 1971 what method the Local used to get the money from the Local to the International office i submitted it to?

A Check.

Q Did it send it through the mail?

A Yes, I would say yes.

Q From time to time were there any meetings of the International that people from the Local attended in the ordinary course?

A Yes, there would have been.

2 Q And where were those meetings held, if you
3 can recall, in 1971?

4 A With the International? Did you say the
5 International?

6 Q Yes.

7 A I don't believe we had a meeting with the Inter-
8 national during 1971.

9 Q Were there any negotiations that Local 445
10 participated in that involved other Locals of the Teamsters
11 Union?

12 A Yes.

13 Q And what types of negotiations would those have
14 been?

15 A Furniture negotiations in 1971, I know for
16 one; block yard -- that was strictly with Local 445. Furni-
17 ture handlers, furniture workers.

18 Q What types of negotiations were those?

19 A They were joint negotiations. Two local unions
20 with two sets of committees and two separate groups of
21 employers together.

22 Q Were there any so-called national negotiations
23 in 1971?

24 A I don't believe so, no.

25 Q Was it part of the ordinary course of business
of Local 445 to participate in national negotiations

1

when they occurred?

2

3

A Yes.

4

MR. NEWMAN: I object to the form of that question, Judge.

5

6

THE COURT: Read it back, please.

7

(Record read.)

8

THE COURT: Overruled.

9

Q Mr. Alecca, could you just explain to the jury what national negotiations are?

10

11

12

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14

15

A National negotiations are the International reps being there, be it the general president or designated representative of the International conducting negotiations with more than one local union throughout a given area of the country.

16

17

18

Q Were there any national negotiations in which all or substantially all of the Teamsters locals participated that you know of?

19

20

21

22

23

A I wouldn't know of all of them. I would say the ones that had general freight would be the biggest, where that was a national agreement. If all of the locals throughout the United States were part of it, I could not answer that question.

24

25

Q So far as you know, were many locals throughout the United States part of it?

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A I would say yes.

Q Were they located in different parts of the United States?

A Yes, they were.

Q Was Local 445 part of that?

A Yes, we were.

Q How did you in Local 445 get information about that national bargaining?

A Correspondence through the International to the officers of Local 445.

Q In 1971, did you have occasion on union business to visit the headquarters of the International at all?

A Yes, we did.

Q Do you remember how many times?

A Twice.

Q And did you have to travel outside New York State in order to do that?

A Yes.

Q Did other members of the union join you in traveling out of New York State to do that?

A Yes, they did.

Q Do you recall what method of transportation you used?

A One time there was plane and another time there

1 gwb-9

Alecca-direct

46 *A*- 20

2 was bus.

3 Q In 1971, Mr. Alecca, did Local 445 operate one
4 or more hiring halls?

5 A Yes.

6 Q And could you tell us how those hiring halls
7 worked?

8 A They were administered by the individual business
9 agents that were covering a particular county, one of
10 the seven that I mentioned, and they represented and took
11 the employees that were working in that given area. Anyone
12 laid off in one of them counties would report to that
13 business agent in that county or reported to the office in
14 Newburgh or the office in Yonkers.

15 Q And what would the business agent do with that
16 information, that is, the employees who had been laid off,
17 ordinarily?

18 A He would put it on a list.

19 Q And then what would he do with the list?

20 A He would hold it. It would be in his possession
21 When an employer would call up for an individual worker,
22 he would try to send him the individual that suited that
23 employer mostly because of the different types of equipment
24 we were operating in the Local.

25 So at times it was difficult to take the first

or the second individuals on that list.

Q How did the business agent go about making this type of selection?

A By his personal knowledge of the individuals in his given area.

Q Were the business agents supervised by anyone?

A Yes.

Q Who?

A The secretary-treasurer.

Q That was Mr. Daley, is that right?

A Mr. Daley.

Q There is a position in many of the jobs of Local 445 known as the shop steward, is that right?

A That's correct.

Q How were shop stewards selected in Local 445?

A By the business representative or Mr. Daley.

Q And are they also removed or were they also removed by Mr. Daley during the time you are familiar with?

A Yes.

Q And that included 1971? In other words, did he have that authority during 1971?

A He had that authority, yes.

Q Did there ever come a time when you

1 THE WITNESS: This roof here, from this point
2 here. There is a drop roof here. From here to here is
3 what I did. This is another section.
4

5 MR. NEWMAN: Might we have him put black
6 marks?

7 THE COURT: Put a mark at the point where
8 the two roofs separate.

9 (Witness writes.)

10 THE COURT: As I understand it, Mr. Alecca,
11 what you are saying is you had been familiar with the larger
12 section of the roof but not the smaller?

13 THE WITNESS: Yes, sir.

14 MR. NEWMAN: Thank you, Judge.

15 Q Are you also saying, Mr. Alecca, that that
16 entire section of the house, that smaller section that you
17 have drawn the line around, was not there at the time you
18 worked on the roof?

19 A That's right.

20 Q Did there come a time when you had a discussion
21 with Mr. Daley concerning some stone?

22 A Yes, sir.

23 Q When did that conversation occur?

24 A 1971.

25 Q When in 1971, if you can recall?

gwb-2

Alena-direct

74

1 A Summertime.

2
3 Q Can you tell us what Mr.Daley said to you
4 and what you said to Mr.Daley on that subject?

5 A Mr.Daley said he needed a few loads of stone,
6 could I get a few loads of stone for him. I asked him
7 what type of stone, there are all different sizes of stone,
8 and he at that time indicated about a one-inch stone. I
9 said I would see what I could do about getting him some
10 stone.

11 Q Thereafter did you talk to someone else concerning
12 the stone?

13 A Yes, I did. I went to Hudson Cement, which
14 is one of the companies in Kingston, New York, a cement
15 plant. I spoke to Tom Turco, who is the plant superintend-
16 ent. I told him I needed a few loads of stone for Ted.

17 Q When did this conversation occur?

18 A I would say -- it was in the summer. It
19 had to have taken place after I had the conversation with
20 Mr.Daley.

21 Q And do you recall what Mr. Turco said in
22 response to your saying that you needed a few loads of stone
23 for Ted?

24 MR. NEWMAN: Objection.

25 THE COURT: To what?

gwb-6

Alecca-direct

78

1
2 BY MR. WOHL:

3 Q After you told Mr. -- I will with that
4 for a minute.

5 What was Mr. Turco's position at that time?

6 THE COURT: What did he say?

7 MR. WOHL: I thought I would ask him what his
8 position was.

9 THE COURT: Do you mean where was he?

10 Q How was Mr. Turco employed at that time?

11 A Mr. Turco's position at the plant was superintend-
12 ant.

13 Q And did he say anything in response to your say-
14 ing that you wanted a few loads of stone for Ted?

15 A He could not give me an answer, he had to speak
16 to his superior, Robert Greene, and he would get back
17 to me and give me an answer.

18 Q At that time where was this Hudson Cement plant
19 located?

20 A On North Street in Kingston, New York.

21 Q And was it a company that employed members
22 of Local 445 at that time?

23 A Yes, it did.

24 Q Was it also in your area of responsibility as
25 a business agent for the union?

gwb-7 Alecca-direct

A Yes, it was.

Q So do you know approximately how many members of Local 445 Hudson Cement employed in 1971, the summer of 1971?

A Yes. 44. Approximately 44 employees.

Q Briefly, what did they do for Hudson Cement Company at that time?

A Two classifications, two contracts. Approximately 19 employees worked in the plant in the quarry where they manufactured the stone in the quarry, and yard drivers who drove smaller trucks inside the yard, and a warehouse man.

The second set of employees were the employees that transported the cement over the road in the cement trucks.

Q Do you know where they transported the cement to?

A Yes. Various places. Connecticut, New Jersey, New York City, upstate New York to various ready-mix plants, and New York City to their home plant, which was somewhere along the East River.

Q In this conversation with Mr. Turco, was there any discussion of how much stone you needed?

A He asked me approximately about how much, and

1 gwb-8

Alecca-direct

2 I believe I said about ten loads, somewhere in that vicinity.

3 Q Was there any discussion as to what kind of
4 stone this was to be?

5 A He didn't think I was talking about a one-inch
6 stone --

7 THE COURT: Don't tell us what he thought. Just
8 tell us what you said or he said.

9 A I asked him for one-inch stone. There was no
10 one-inch stone in size, and he would get back to me on
11 his answer and tell me what type of stone we could have.

12 THE COURT: You mean he said to you there
13 was no one-inch stone?

14 THE WITNESS: Yes. He said it doesn't come in
15 that size.

16 Q Thereafter, what was the next thing that
17 happened in connection with the stone?

18 A Tom Turco got a hold of me and said it was okay
19 to get the stone, but we would have to make our own
20 arrangements on getting it when his employees would
21 not be tied up at the plant.

22 Q And in that conversation was there any discus-
23 sion about what kind of stone it was to be?

24 A No. When we got down there with the trucks,
25 he would direct us to the stone that would go up.

gwb-9

Alecca-direct

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2 Q Was there any discussion in either of these
3 conversations with Mr. Turco about your using waste material?

4 A No, sir.

5 Q Thereafter, did you have a conversation with
6 someone else concerning the arrangement of getting the stone?

7 A Yes, I did.

8 Q And who was that?

9 A Thomas Clausi.

10 Q Who was Mr. Clausi?

11 A Thomas Clausi was a shop steward of Local 445
12 employed on the Thruway for Callanan Road Improvement.

13 Q And where was that thruway job at that time?

14 A In Kingston, New York.

15 Q On the New York Thruway near Kingston?

16 A On the New York State Thruway in Kingston, New
17 York.

18 Q And what would his job have entailed being a
19 shop steward in that area?

20 A Supervision and see that the contract was en-
21 forced, any grievances that might arise on the job which
22 he would handle between the employer and the employee
23 and himself and when he couldn't handle it then it would
24 come under the jurisdiction of the business agent.

25 Q And that was you at that time?

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Alecca-direct

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A That is exactly right.

Q Who supervised Mr. Clausi as far as union matters went at that time?

A Myself and Mr. Daley.

Q And at that time did Callanan Road Improvement Company employ any Local 445 members?

A Yes, they did.

Q On this thruway job?

A Yes, they did.

Q Approximately how many, if you recall?

A Ten to fifteen.

Q And what did those employees do on the Callanan Road Improvement Company job?

A They drove trucks.

Q What kinds of trucks?

A Dump truck, pickup truck and there might have been one water tanker on the job.

Q Were there also some owner-operators connected with Local 445 who were employed on that job at that time?

A Yes, there was.

Q Will you tell the Court and jury what an owner-operator was at that time?

A Owner-operator is an individual who is a member that owns more than one truck and drives one himself.

gwb-11

Alecca-direct

83

Q And who were the owner-operators working on the Callanan job in the summer of 1971 under Mr. Clausi?

A Mike Spada Trucking, Robert Kozlowski Trucking, and I think there was one other trucker with two trucks. I can't think of his name right offhand, but it will come to me.

(continued on next page.)

End 4A PM

1 l gwsr Alecca - direct

2 Q Are you sure there was another company, by
3 the way?

4 A At times yes, there was in '71. On that
5 particular job at times, yes.

6 Q At the time you contacted Clausi was this
7 third company working?

8 A I don't know.

9 Q In any event, what did you say to Mr. Clausi
10 and what did he say to you on the question of the stone?

11 A I told Clausi that we had to get some stone
12 up to Windham, New York, for him to make the arrangement
13 to get the trucks and I would get back to him on the time
14 and place for the delivery of the stone.

15 Q Do you recall approximately what the date
16 was that you had this conversation with Clausi?

17 A I would have to say the latter part of August.

18 Q Of 1971?

19 A '71.

20 Q Did you have a conversation with Mr. Daley
21 around that time concerning the stone?

22 A Yes, I did.

23 Q Where did that conversation occur, if you
24 recall?

25 A In our office.

1 2 gwsr Alecca - direct

2 Q In Newburgh?

3 A Newburgh, New York.

4 Q What did you say to Mr. Daley and what did
5 he say to you at that time?

6 A The part of the conversation I can remember
7 is I said I had stone and I would get back to him when
8 it would be delivered.

9 Q What happened next?

10 A I made arrangements to have the stone delivered
11 on a Friday evening, September 3rd.

12 Q 1971?

13 A 1971.

14 Q Did you have a conversation with Mr. Daley
15 that day?

16 A Yes. We were both in the Newburgh office
17 on that day.

18 Q What did you say to him and what did he say
19 to you?

20 A I told him the stone would be delivered to
21 his place in Windham, New York, that evening.

22 Q And did you speak to Mr. Clausi on that day?

23 A I don't know if it was that day. I don't
24 know.

25 Q When was the last time you spoke to him before

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3 gwsr

Alecca - direct

the actual delivery of the stone, do you recall?

A Oh, I would have to say it would have been
the day before.

Q Do you recall what that conversation was?

A That he was to have the drivers down --
drivers and trucks at Hudson Cement after working hours to
pick up the stone.

Q What time did you leave the Newburgh office
on that day, September 3, 1971?

A I left the office approximately 2:30 to three
o'clock to go to Kingston to meet them trucks and escort
them to Windham, New York.

Q And what happened?

A I got involved in an automobile accident en
route to Kingston.

Q And so where did you go after you had the
automobile accident?

A To the hospital.

Q Did there come a time when you were released
from the hospital?

A Yes, on the following day.

Q That was Saturday, September 4th?

A Saturday, September 4th.

Q And thereafter did you speak to Mr. Clausi?

1 4 gwsr Alecca - direct

2 A No, I did not.

3 Q And did you speak to anyone in connection with
4 the stone?

5 A Two drivers that stopped in at my home on the
6 way to the cement plant to pick up stone that Saturday
7 afternoon.

8 Q And you did not go deliver any stone, is that
9 right?

10 A I did not.

11 Q Did there come a time when you had a conversa-
12 tion concerning some timbers for Mr. Daley's house in
13 Windham, New York?

14 A Yes, I did.

15 Q And who was that conversation with?

16 A That conversation was with Mr. Daley and myself.

17 Q And do you remember when it was?

18 A Not right offhand, no.

19 Q Approximately?

20 A I would say it was probably June of '71.

21 Q And what did Mr. Daley -- withdrawn.

22 So it was before the stone, is that right?

23 A That conversation, yes.

24 Q Okay. What did Mr. Daley say to you and what
25 did you say to him in this conversation?

5 qwsr

Alecca - direct

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2 A Mr. Daley said to me in that conversation that
3 he had spoken to Tom Clausi on getting some beams up to
4 his cabin and he wanted to know why they were not
5 delivered. I told him I did not know but I would reach
6 out and find out.

7 Q All right. Did you thereafter have a con-
8 versation with Mr. Clausi?

9 A Yes, I did.

10 Q Do you remember when that was?

11 A I would assume that night or that day at the
12 office. That conversation was by telephone.

13 Q What did you say to Mr. Clausi and what did
14 he say to you?

15 A I asked Mr. Clausi if he was to deliver some
16 beams, and he said yes, he was, but before the beams could
17 go that I would have to call Mr. Marcelle, who was the
18 president of Callanan Road Improvement, before the beams
19 could be released.

20 Q And what did you then do?

21 A I made a phone call to Mr. Marcelle at South
22 Bethlehem, New York, which is south of Albany, in his
23 office.

24 Q And do you remember when that conversation
25 was?

6 gwsr Alecca - direct

A No, I do not.

Q And what did you say to Mr. Marcelle and what did he say to you?

A I asked him about the beams and he said that he wanted to make sure they were going where I told him they were going to go because some fellows had a habit of using another fellow's name and he wanted to verify that this was where the timbers were going and who they were for.

Q What did you tell him?

A I told him they were definitely going to Windham and would he please call his job and relay that information.

Q Did you tell him who they were for?

A Yes, I did.

Q Who?

A I told him they were for Mr. Daley.

Q And what happened next concernint the timbers as far as you know?

A As far as I know, they went up there.

Q Who told you that?

A Tom Clausi.

Q So for as you know, was the Hudson Cement Company ever paid for the stone that they produced?

A Not to my knowledge.

7 gwsr Alecca - direct

Q Were any of the trucking companies paid for the trucking work they did to truck the stone up to Windham, New York?

A To my knowledge, they were not.

Q Were any of the drivers who did any of that driving paid for the driving of the stone?

A Not to my knowledge.

Q In connection with producing or arranging for the stone, timbers, the bulldozers and the driving, the other work, did you ever threaten any of the companies or the laborers who might be providing that material?

A I did not.

Q Did there come a time thereafter, after 1971, when you had a conversation with somebody from the Federal Government?

THE COURT: You mean the first conversation?

MR. WOHL: Yes, I am looking for the first conversation.

A Yes.

Q Do you recall when that occurred?

A No, I don't.

THE COURT: Can you approximate it?

THE WITNESS: I would say approximately '73, somewhere approximately in '73.

1 lhb-3

Alecca-cross

2 Q Sir, do you know whether any leftover cement
3 was ever delivered by Colonial to Walker's house when you
4 were in charge --

5 A No, I do not.

6 Q Let me finish. When you were in charge of the
7 area?

8 A No, I do not.

9 Q In this area where Kozlewski, Spada, Callanan,
10 Maggiola and Hudson Cement were located, were you the busi-
11 ness agent?

12 A Not for all of them.

13 Q For which ones were you the business agent?

14 A Spada, Kozlewski, Maggiola did have a job in
15 the area, yes, sir. I am sorry.

16 Q Shop stewards, could they be removed by the
17 business agent?

18 A They could be removed by the business agent
19 with good reason, but the removal has to go through the
20 secretary-treasurer.

21 Q Does it have to go through the executive board?

22 A If there is some question, they could bring it
23 to the executive board, but usually when the secretary-
24 treasurer made a decision, that stood.

25 Q You told us about some trips that were made up

1 1 lhr

2 UNITED STATES OF AMERICA,

3 - against -

76 Cr. 708

4 THEODORE G. DALEY.

5 February 23, 1977

6 [10:30 a.m.]

7 - - -
8
9 [In open court; jury present.]

10 A N T H O N Y A L E C C A , J R . , resumed.

11 THE COURT: I am sorry we got started late.

12 I hope we can keep moving along fast.

13 MR. NEWMAN: May I proceed, your Honor?

14 CROSS-EXAMINATION [continued]

15 BY MR. NEWMAN:

16 Q Mr. Alecca, we talked yesterday about some
17 trucks that were driven up to Windham. Do you know if
18 any of the drivers refused to drive up?

19 A To my knowledge, no.

20 Q Do you know a gentleman by the name of Leland
21 Eaton?

22 A Yes, I do.

23 Q Did he refuse to drive up?

24 A I heard, but not to my own knowledge.

25 Q You heard that he refused to drive up?

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10 lhr

Alecca - redirect

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A-39

about these other damages?

A We complained extensively to Hudson Cement on the damages, yes, we did.

Q Did you try to get the dust off the car with something other than this acid that Hudson Cement Company had?

A Yes. They told us vinegar would cut it. At times it was so thick that it wouldn't cut it.

Q What did you do?

A We would have to go and get the acid.

Q Did you have any position with the fire department in Kingston?

A East Kingston, yes.

Q What was your position there?

A I have held the position of president, secretary, vice president, recording secretary, a number of positions.

Q Did you deal with Hudson Cement Company in that capacity?

A Yes, we got some fill from Hudson Cement for the property.

Q For what property?

A For the fire company in East Kingston. We put up a new substation, and we asked Hudson Cement to

1 11 lhr

Alecca - redirect

185A40

2 donate the fill for where the fire station was going
3 to be put up.

4 Q Did they get paid for that, Hudson Cement?

5 A No, they didn't.

6 Q Did you tell Mr. Daley that the stone he got
7 was coming from Hudson Cement?

8 A Yes, I did.

9 Q When did you tell him that?

10 A I don't know, sir.

11 Q Pardon?

12 A I really don't know when I told him.

13 Q Before the stone was delivered?

14 A Oh, sure.

15 Q You testified on cross-examination about a
16 recent trip to Windham. Did somebody ask you to take
17 that trip to Windham?

18 A I got a call.

19 Q From whom?

20 A Jack Ken.

21 Q He is who?

22 A From the Federal Bureau of Investigation.

23 Q He asked you to go up to Windham?

24 A He asked me, there was some question about
25 the route, the name of a street, and if I would go with

1 lbh-6

Clausi-direct

2 Q Are you a member or have you ever been a member
3 of Local 445 of the Teamsters Union?

4 A I was.

5 Q When were you a member of Local 445?

6 A 1962 to 1973.

7 Q Do you know who Mr. Daley is?

8 A I do.

9 Q Do you recognize him in court?

10 A I do.

11 Q Would you point to him, please?

12 MR. NEWMAN: Stipulating pointing to
13 the defendant, Judge.

14 THE COURT: All right.

15 Q He was the secretary general or secretary-
16 treasurer of Local 445 when you were a member of it, is that
17 right?

18 A Yes.

19 Q Did there ever come a time when you learned
20 that Mr. Daley had a house in Windham, New York?

21 A Yes, I did.

22 Q Do you recall when you learned that?

23 A September, 1971.

24 Q From whom did you learn it?

25 A Tony Alecca.

1 lhb-7 Clausi-direct

2 Q Where was this? If you recall.

3 A Telephone conversation on the telephone, Tony was
4 in Newburgh and I was on the Callanan Road Improvement
5 Company job in Kingston, New York.

6 Q That was located on the New York Thruway, is
7 that right?

8 A That's right, in Kingston, New York.

9 Q Do you remember the exact date of the conversa-
10 tion?

11 A Yes, sir, the Friday before Labor Day, September
12 3.

13 Q 1971?

14 A Right.

15 Q Tell us in that conversation what Mr. Alecca
16 said to you and what you said to him.

17 A Tony called me up and he told me to call Mike
18 Spada's trucks, get a hold of Big Mike and to get a hold
19 of Bob Kozlowski, and to have the trucks down at Hudson
20 Cement and get them loaded with Number 1 stone.

21 Q At this time what was your position on the
22 Callanan Road Improvement Company job?

23 A I was the shop steward.

24 Q What did that entail?

25 A To take care of any problems that arised, to

1 lhb-8 Clausi-direct

2 take care of the trucking.

3 Q After talking to Mr. Alecca, what did you do?

4 A I called Bob Kozlowski, and I asked him to
5 call his drivers and to meet me at Hudson Cement with his
6 trucks. After I called Bob Kozlowski, I put a call out
7 to Big Mike Spada, and I couldn't get him, and I got a hold
8 of young Mike Spada. This is Michael Spada, Jr.

9 I told him that Tony asked me to get his
10 trucks and to have them at Hudson Cement and have them
11 loaded with sone.

12 Q When Mr. Alecca had originally talked to you, did
13 he tell you who this stone was for?

14 A Not on the phone.

15 Q What time was this conversation?

16 A This was in the afternoon, between 2:00 and 4:00.

17 Q That Mr. Alecca called you?

18 A Yes, because we had to be off the Thruway,
19 the holiday was coming up, and we had to be off the Thruway
20 I believe it was by four o'clock, we had to be off the
21 Thruway.

22 Q Then did you call Mr. Spada and Mr. Kozlowski
23 shortly after that?

24 A I called Mr. Kozlowski and got a hold of him.
25 I didn't get a hold of Mr. Spada, Senior. I got a hold of

1hb-9

Clausi-direct

Michael Spada, Jr.

Q When Mr. Alecca called you, did he tell you what you were supposed to do with this stone once you got it?

A He told me he would meet me at Spada's garage to tell me where to go.

Q Did there come a time when you left your job at Callanan Road Improvement Company?

A Yes, I left that night for the evening at 4:30, quarter to 5:00.

Q Where did you go then?

A I went directly to Spada's garage.

Q Who was there at that time?

A Michael Spada, Jr. was there.

Q Did you have any conversation with him?

A Yes. I told him that Tony told me to get his trucks and have them at Hudson Cement and have them loaded up with stone, and that Tony was going to be there to guide us up where we were going to bring the stone. Tony never showed up while I was down at the Spada garage, and Mrs. Alecca pulled up. I said to Mrs. Alecca, "Where's Tony?"

She said he was in an automobile accident and he got hurt.

I said, "He told me to load these trucks. I

1 lhb-10 Clausi-direct
2 don't know where they gone."

3 : She said, "They gone to Ted Daley's house".

4 I said, "Where is Ted Daley's house?"

5 She said, "In Windham, New York."

6 I said, "I never been to Windham and I don't
7 know how to get there."

8 She said, "You get a hold ov Vinnie LaRocca,
9 because he has been there and he will show you the way up
10 there."

11 I got a hold of young -- Michael Alecca
12 happened to be coming by. I said, "Jump in the truck. We
13 have to bring the stuff over to Windham," and I got a hold
14 of Vinnie LaRocca and he showed us the way up there. This
15 is about 6:30 at night.

16 Q What happened then?

17 A Well, first I went to Hudson Cement and I went
18 to Tommy Turco, and I said, "Tony Alecca told me to come
19 down here and load these trucks with one-inch stone."

20 Q Wait a minute. Before you got to Hudson
21 Cement, did you call any drivers at all?

22 A Bob Kozlowsky took care of his drivers. He
23 called Fred Perry, Frank Qualtere, young Mike Spada, Bob
24 Snyder was down at the Spada garage and I got him.

25 Q What did you say to these drivers that you called?

1 lhb-11

Clausi-direct

2 A I told them that Tony wanted the trucks loaded
3 with stone, and we had to bring it some place, and he
4 would meet us and guide us up there.

5 THE COURT: How many drivers did you need?

6 THE WITNESS: At that night, sir, it was
7 between 10 and 11 drivers. I believe I had ten 10-wheelers
8 and one tractor-trailer.

9 Q How did you know how many drivers to get?

10 A Tony had told me how many trucks to get, to
11 get the Kozlowski trucks and the Spada trucks, and combined,
12 that is what they were at the time.

13 Q At this time were these trucks working on
14 the Callanan Road Improvement Company job?

15 A Some of them were. Some of them were. I
16 believe Kozlowski had a couple of trucks down on the Newburgh
17 job, and I can't recall where the tractor-trailer of
18 Spada's was working.

19 Q Did Kozlowski at that time own more than one
20 truck?

21 A Yes, he did.

22 Q How many trucks did he own at that time?

23 A I believe Bob owned three, this is Bob Kozlowski,
24 and I believe his brother Ronnie owned two at the time,
25 to the best of my recollection.

1 lhb-12

Clausi-direct

2 Q WERE they all working --

3 A They were all together.

4 Q They were all working on the Callanan job?

5 A Right -- no, no, absolutely not. I told you,
6 two of Bob Kozlowski's trucks were working down in Newburgh
7 some place.

8 Q How about Spada's trucks, how many of those
9 trucks were there at that time?

10 A Let me see, he had two green ones, two green
11 Autocars and three red Macks, and one International and one
12 tractor-trailer, which was also an Autocar.

13 He had good equipment.

14 Q Mr. Clausi, let me show you Government Exhibit
15 3514, page 12 thereof, about the top quarter of the page.

16 MR. NEWMAN: Your Honor, I object to this
17 procedure.

18 Q I ask you to read it to yourself.

19 THE COURT: For what purpose, to refresh his
20 recollection?

21 MR. WOHL: Yes.

22 MR. NEWMAN: We haven't had any evidence that
23 it needs refreshing.

24 THE COURT: I agree. I prefer you to remove
25 it. There is no indication of failure of recollection.

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Clausi-direct

Q My question to you, Mr. Clausi, is when Mr. Alecca first called you up and told you about hauling stone, did he at that time in that telephone conversation say anything at all to you about where this stone was going?

MR. NEWMAN: That has been asked and answered twice, Judge.

THE COURT: I will allow once more. Do you understand the question?

THE WITNESS: Yes.

A He didn't tell me he was going to Ted Daley's camp. He told me he was going up to Windham and he would meet me at Mike Spada's garage and guide me.

Q You are sure of that?

A To the best of my recollection, I am sure of that.

Q Are you having any trouble recalling that?

MR. NEWMAN: Judge, I object to this. He had no trouble --

THE COURT: Sustained.

Q When you called up Kozlowski and told him that you wanted his trucks to go to Hudson Cement, as you told us, did you tell him anything at all about what they were going to be doing?

1 lhb-14

Clausi-direct

2 A I told him that the trucks were to be loaded
3 with stone and that we were taking them to Windham, but
4 I didn't know where. Tony Alecca was going to guide us to
5 where they went.

6 Q Did you in that conversation tell him anything
7 about why they were going to Windham or who was -- who
8 wanted them to go to Windham?

9 A I don't recall, to the best of my recollection,
10 I don't recall that. This happened in 1971.

11 Q I now show you Government Exhibit 3514, page
12 13 thereof, the bottom half of the page, and I ask you to
13 look at that, read it to yourself --

14 THE COURT: I think this is proper at this
15 time.

16 MR. NEWMAN: Okay.

17 Q And my question to you is, does it refresh
18 your recollection on whether you told Mr. Kozlowski that
19 the trucks were going -- what the trucks were going to be
20 used for?

21 THE COURT: Does that help you remember what
22 you said you couldn't remember?

23 THE WITNESS: I don't remember telling Kozlowski
24 that I was going to Daley's because I didn't know about going
25 up to Daley's until Mrs. Alecca told me to go. I told

1 lhb-15

Clausi-direct

2 Kozlowski we were going up to Windham, to the best of
3 my recollection.

4 Q In any event, you went to Hudson Cement. What
5 happened at Hudson Cement?

6 A I saw Tommy Turco and I told him, I says,
7 "Tony sent me down here for Number 1 stone or one-inch stone."

8 He says to me, "Have the trucks weigh in and
9 go on the 3/8 pile."

10 So I went down by the 3/8 pile. Whether the
11 trucks went up and weighed in or not, I don't know, but I
12 know some of them went up that hill.

13 Q When you met with Mr. Turco, did you have any
14 conversation with him about what type of stone you were
15 supposed to pick up?

16 A I don't know whether I told him Number 1 stone
17 or Number 3 stone.

18 Q Do you remember if he said anything?

19 A Yes. He told me to go down --

20 MR. NEWMAN: I object to that on the same
21 grounds as yesterday.

22 THE COURT: I don't know what you mean by
23 the same grounds as yesterday.

24 MR. NEWMAN: I can do it from the well or from
25 the side bar, whatever your pleasure is. On the grounds

1 lhb-18

Clausi-direct

2 A Between 10 and 11. It was either nine
3 10-wheelers -- what I mean by 10-wheeler is two wheels
4 in the front and 8 wheels in the back with a dump body on
5 it and a tractor trailer. That is with a horse and a
6 big trailer around the back of it.

7 Q Who were the drivers?

8 A At that night? Michael Spada, Jr., was Fred
9 Perry, was Frank Qualtere, was Bob Snyder, was Robert
10 Kozlowski, Ronald Kozlowski, Joe Forte, Dick Bockelmann --
11 I am lost now.

12
13 (continued on next page.)

14 End 3B AM

gwb-10

Clausi-direct

1 I said, "How are we going to get this 10-wheeler
2 of Mike Spada's, though?"

3 He said, "Mike, leave the truck here. We will
4 come up and pick it up tomorrow."

5 He said, "I have to bring it hom."

6 So Bob Kozlowski said, "I can get that truck
7 going."

8 I said, "How?"

9 He said, "I can change it from automatic to manual
10 and give it a tow with my truck and she will kick off."

11 That is what we did. We got those trucks started.

12 I dumped those two trucks. We went down Route 17
13 to 23A, maybe about a mile, a mile and a half, and we stopped
14 at a restaurant on the right-hand side and all the trucks
15 were with me, we had a good place to park. They all went
16 in and ate, I picked the tab up, \$23.80, which I didn't
17 get paid for. We ate --

18 Q How many people were there?

19 A It was me, Vinnie La Rocca and Mike Alecca,
20 nine or ten truck drivers. About 12.

21 THE COURT: Where is this place?

22 THE WITNESS: It is out of business. I seen
23 it the other day. It is out of business. They were all
24 eating ham sandwiches.
25

1 l gwsr

Clausi - direct

2 Q How long did you stay in bed, Mr. Clausi?

3 A I don't know. Maybe about five or six o'clock
4 in the morning the phone rang.

5 Q And did you answer it?

6 A Sure, I answered it.

7 Q And who was on the other end of the phone?

8 A Ted Daley.

9 Q What did he say?

10 A He said to me, "I seen the trucks kind of
11 late."12 I said, "Yes, I didn't get home until four
13 o'clock this morning."

14 He said, "I need some more stone."

15 I said, "What do you want me to do?"

16 He said, "Get the trucks and go down and get
17 more stone."

18 Q What did you say?

19 A I said, "Okay."

20 Q Did you talk about how many more loads you
21 needed?22 A Yes. He said, "What do you think, how many
23 do you think?"

24 I said, "Ted, where are you going to fill?"

25 He said, "All are there."

1 2 gwsr Clausi - direct

2 I said, "You will need 20 or 30 more loads."

3 Q More loads?

4 A More loads. So for me to go down and get them.

5 Q And what did you do than?

6 A I got on the phone with Mr. Turco, Hudson
7 Cement.

8 I said, "I got a call from Ted. He wants more
9 stone."

10 He said to me, "You are getting worse than
11 Ted Daley and Mike Alecca."

12 I said, "You know where you can put that
13 stone. I am fed up to here. I don't care whether you
14 load the trucks."

15 That is exactly what I said.

16 He said, "Pope and everybody is here. Come on
17 back one o'clock and load up."

18 Q Who is Pope?

19 A They own Hudson Cement.

20 Q Did you have a conversation that morning
21 with any of the drivers?

22 A I called Bob Kozlowski and Mike Spada.

23 Q About what time did you call them?

24 A Early in the morning. I told them to come down
25 to Hudson Cement, to load up with stone, we had to make

Q The last four you mentioned were Kozlowski drivers, is that right?

A I can tell you. Robert Kozlowski, Ronald Kozlowski, Joseph Forte, Dick Bockelmann. Those were the Kozlowski drivers.

Q The others were the Spada drivers?

A Spada drivers.

Q How about Herbert Sutton, was he there?

A Yes, he was there. He was a Spada driver.

Q How about Harley Williams, was he there?

A To the best of my recollection, I don't know.

Q When you got there, was there any other kind of vehicle there other than one of these 10-wheel dump trucks?

A Where?

Q At Hudson Cement.

A I had a tractor-trailer. I had Michael Spada's tractor-trailer. Bob Snyder was driving it.

Q What was the capacity of the 10-wheel dump truck for hauling stone?

A Do you want the legal capacity or the capacity they would carry?

Q Tell us both.

A The legal capacity is 15 ton. It wouldn't be overweight and you wouldn't get a ticket, but when they

gwb-2

Clausi-direct

were working by the ton on the job, they throw 22, 25 ton on.

Q What was the capacity in stone weight of the tractor-trailer outfit that you saw there?

A You mean loaded with stone?

Q Right.

A About 25 ton.

Q Did all the trucks load up at Hudson Cement?

A Yes, sir.

Q After they loaded up, what happened then?

A I got a hold of Vinnie LaRocca and Mike Alecca and went up to Windham.

Q In what type of vehicle?

A I went up in my pickup truck with Vincent LaRocca and Michael Alecca with me.

Q What route did you take up?

A North Street up to John Street, East Kingston, out to Route 32 to Saugerties, into Route 23 and into Windham, into North Settlement Road. Then I took a road to the left that went over a little bridge. I don't know the name of that. We got on Greene County 32C and up to the cabin.

THE COURT: How long did it take you to drive there?

gwb-3

Clausi-direct

THE WITNESS: I only took me with my pickup truck about an hour and a half. I got there about eight o'clock. But the first truck never hit Windham until about 9:30 or a quarter to 11:00.

Q Would you look at Government Exhibit 1 in evidence and look at the red line that is drawn on there. Does that reflect your route or did you take a different route?

A No, I took this route, 32 right on up to Windham. This is where the cabin is.

Q In other words, the lower part of the route you took was slightly different?

A The lower part? Yes. I come up North Street, John Street to Main Street and onto 32.

Q And after 32 it is your route?

A Right. That is not the way the trucks went that night.

Q You weren't with the trucks, right?

A No, I was not. I went up ahead of the trucks.

Q Did there come a time when you saw Mr. Daley?

A Yes.

Q Where did you see Mr. Daley?

A I was going up North Settlement Road with the pickup and we didn't know if it was Mr. Daley. So I

gwb-4

Clausi-direct

1 pulled over to the side on the right-hand side of the
2 road going up the hill and Mr.Daley has a Cadillac and
3 pulled over to the left-hand side of the road coming down.
4 We looked out and Vinnie LaRocca said, "Yes."

5 I went over to him and said, "I got trucks coming
6 up."

7 He explained to Vinne LaRocca where to dump
8 them.

9 Q Put a one on the map with this red marker --
10 excuse me -- black marker at about the location that you
11 saw Mr.Daley.

12 A Where is North Settlement Road?

13 Q There is 32C.

14 A About here (writing).

15 Q Did you have a conversation with Mr.Daley at
16 that time?

17 A Yes, the conversation --

18 Q Tell us what you said and what he said.

19 A I said, "I ahve the truck coming up with stone.
20 Where do I go?"

21 He said to Vinnie LaRocca, "You know where to
22 go; backaround the back end of the cabin. Start at the
23 back end and fill in that vicinity."

24 Q Then what did you do?
25

1 gwb-5 Clausi-direct

2 A He continued on his way.

3 What did I do then?

4 Q Yes.

5 A He continued on his way and I come back down
6 and I left Mike Alecca down on 23.

7 I said, "If you spot any of the trucks send them
8 up this road and we will meet them."

9 Vinnie and I went up to the cabin. When
10 nobody showed up, we come back down.

11 Q About what time was this?

12 A It was dark. It was about 8:30.

13 Q What happened then?

14 A Then Vinnie LaRocca, Mike Alecca and I -- there
15 was a little one of those ice cream places on 23 on the
16 left-hand side. I said "Let's go in and get something to
17 eat."

18 I left -- I said, "I will leave the pickup truck
19 on 23 because if they are coming down -- they will be
20 coming down -- they will be coming south so they will spot
21 my pickup truck and stop."

22 We were there for about an hour and no trucks
23 come.

24 Q Did there come a time when you did see some
25 trucks?

gwb-6

Clausi-direct

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2 A There come a time when I went down into the
3 Village of Windham. I spotted a truck in front of a bar-
4 room and there was Dick Bockelmann having his usual whiskey.

5 Q What did you do then?

6 A I was hot. I said, "We are waiting. I want
7 to get home."

8 He said, "I don't know where to go."

9 I said, "You are down this end and I don't know
10 where the other trucks are."

11 I took him and I brought him up to the camp and
12 I dumped him. I left Mike down on the road there in
13 case any other trucks come he can bring them up to the camp.

14 Q And what happened then?

15 A Dumped Dick. No trucks come. Down we come.
16 First we see Beetle coming -- Joe Forte. The only green-
17 horn, the only fellow found the right route.

18 Then after he come, then the trucks started
19 coming like piggy-back. Then I am missing two trucks.
20 We unloaded them. We couldn't dump the tractor-trailer.
21 I dumped the tractor-trailer in front of the gate. There
22 was a bulldozer there.

23 Q Before you get to that, would you look at
24 Government Exhibit 3 for identification.

25 A This is the place.

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Q Is that the house in Windham?

A Yes.

Q Is that a true and accurate photograph of the house in Windham?

A Yes.

Q Would you take this red pen and mark, if it will mark, a number one where the trucks were dumped that night of September 3.

A Right around in back -- right in here. I couldn't make it back there with the 10-wheeler, because it would hit the roof. So I dumped it here.

Q Put a one with a circle around it.

(Witness writes.)

Q I show you on Exhibit 3 for identification a little pile of items over in the lower left corner. Was that there on that night or not?

A No.

Q That was not there?

A No.

Q Except for that, the photograph is accurate?

A The photograph is not accurate. Over here there is an entrance where there is two uprights, about 12-inch poles, and over the top of it there is another pole going over the top. The entrance isn't here.

1 gwb-8

Clausi-direct

2 Q The entrance was slightly different over on
3 the left-hand side?

4 A The entrance is right here. We had to lift this
5 pole off the top in order to get the trucks in.

6 Q That entrance is not shown in the photograph?

7 A No. There are two gates there. It is not
8 shown in that photograph.

9 Q Is the photograph of the house and the swimming
10 pool area a true and accurate photograph?

11 A It is.

12 MR. WOHL: I offer Exhibit 3 for identification.

13 MR. NEWMAN: Into evidence?

14 MR. WOHL: Yes.

15 At this time I will also offer Exhibits 2 and 4.

16 MR. NEWMAN: With the same reservation, Mr. Wohl?

17 MR. WOHL: About the pile, yes.

18 MR. NEWMAN: No objection.

xxx 19 (Government Exhibits 2, 3 and 4 were received
20 in evidence.)

21 MR. WOHL: May I hand them to the jurors,
22 your Honor?

23 THE COURT: Yes.

24 (Photographs handed to the jury.)

25 MR. WOHL: May I continue examining the witness

1 gwb-9

lausi-direct

2 while they are looking at them or would you like them to
3 pass them.

4 THE COURT:.. I would rather have them pass
5 them.

6 They can't look at the witness at the same time.

7 BY MR. WOHL:

8 Q After you dumped the stone, Mr. Clausi, then
9 what happened?

10 A Mike Spada come up with the car. It was young
11 Mike Spada, Jr.

12 I asked him, "Where is the truck?"

13 He said, "I am broke down on the road."

14 I said, "We have to get the load of stone out."

15 They dumped the stone outside the gate. We
16 pushed it in with the bulldozer. I pulled the gate closed.

17 I said, "Everybody stay in line and following
18 me so we don't get fouled up."

19 We went down to where the two trucks were. One
20 didn't have no fuel, the other one didn't have no battery.
21 So a farmer come up to see if we had any trouble.

22 I said, "Yes, we have." I says, "Do you know
23 of any place I can dump this stone?R

24 He says, "Yes." He said, "Back them into my
25 field and dump them."

gwb-11

Clausi-direct

1 A After they got done eating, we had a problem.
2
3 We didn't have any lights on the green Mack truck.

4 "Please leave it there."

5 "No, I have to bring it home," Mike Spada tells
6 me.

7 I said, "We will take a chance. I will put
8 you in the midsle of two trucks. Don't you pull out. You
9 follow those two trucks and I will be ahead."

10 I went ahead with my pickup truck and I had
11 the flasher on the top. We were all right until we were
12 coming down 28, and I spotted a trooper and off that flasher
13 went. That trooper must have had a date because he never
14 saw it or we would have had a ticket that night.

15 We got home into Kingston about 2:30. I
16 followed Mike down to his garage. We put the trucks away and
17 I got home it was about four o'clock and I went to bed.

18 Q Four o'clock in the morning?

19 THE COURT: Did your wife ask you where you had
20 been?

21 THE WITNESS: No. I have had more fights with
22 her than Joe Louis and I never won one.

23 (continued on next page.)

24 End 4A AM
25

1 3 gwsr Clausi - direct

2 another trip.

3 Q Did you tell them why?

4 A Yes.

5 Q What did they say?

6 A They said it was all right. Then I had to call
7 them back and tell them we couldn't get loaded until one
8 or two o'clock.

9 Q What did they say to that?

10 A All right. One o'clock the trucks started
11 coming in. We got loaded with three-eighth stone.

12 Q How many trucks were there at that time?

13 A Fifteen, sixteen.

14 Q Who were the drivers?

15 THE COURT: Do we have to go through all the
16 names again?

17 MR. WOHL: It seems to me it takes a second and
18 it is worthwhile.

19 THE OUCRT: If it is worthwhile, do it.

20 Q Could you tell us who the drivers were that
21 were there the second time?

22 A The second time?

23 Q Yes. This is the morning of September 4th, right?

24 A Right.

25 Q Excuse me. Around one o'clock in the afternoon.

1 4 gwsr Clausi - direct

2 A Right.

3 Q Who was there at that time?

4 A Tony Zmiyarch, Frank Qualtere, Bob Snyder, Herb
5 Sutton, Harley Williams, two of the men refused me,
6 Frank Mahone, Bob Kozlowski, Ronald Kozlowski, Dick
7 Bockelmann, Joe Forte, Collins Becker.

8 Q How about Alton Stewart, was he there?

9 A Alton Stewart. If I had a paper I could
10 write them down.

11 Q Those are some of the people who were there,
12 is that right?

13 A Yes, some of the people.

14 Q What did the trucks do?

15 A They come down to Hudson Cement. I told
16 them to come down, load up, go park up to the firehouse
17 in East Kingston, wait for me because some of the drivers
18 hadn't been there and I will show them how to go and we
19 are going up one route and that's Route North Street,
20 John Street, East Kingston, Main Street out to 32 into
21 Cairo and take 23 into Windham and we would get there.

22 Q You said two fellows refused you. Who were
23 they?

24 A Leland Eaton and -- if I had my time book I
25 could tell you. Brennan, William Brennan.

1
2 Q Would you again look at Government's Exhibit
3 3 in evidence and put a red number 2 where the stone was
4 dumped on this occasion on September 4th?

5 A I got to draw it all the way around here.

6 Q Draw a circle that includes the whole area
7 that stone was dumped.

8 A It was dumped from here all the way out to
9 here.

10 Q Why don't you just draw a line marking all
11 of the area that that stone was dumped in.

12 [Witness writes.]

13 Q Would you put a 2 right in the middle of that
14 area?

15 [Witness writes.]

16 Q I gather that the trucks dumped the stone
17 rather than in one big pile in several piles in a line?

18 A Several piles. As we were dumping Ted spread
19 a few and I put Harley Williams on the dozer to spread
20 the rest of it.

21 Q Did you have a further conversation with Mr.
22 Daley on that afternoon?

23 A Yes. I asked him whose place it was.

24 Q What did he say?

25 A Captain Hetcher, state police.

1

2

Q Was there a sign there, by the way?

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4

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A On the door, on the door there was a sign
maybe about three inches long, about an inch high and
it said C-a-p-t Flecher.

6

7

Q Did you have any other conversation with him
that afternoon?

8

9

A I said, "Have you got any water? The mean want
water."

10

He showed me where the hose was.

11

12

I said, "Do you have anything to drink for
them?"

13

He came out with two six-page nips.

14

Q What is a nip?

15

A Small seven-ounce bottle.

16

17

Q What else happened that afternoon while you
were up there in Windham?

18

A Nothing.

19

Q Did you then drive back to Kingston?

20

A Yes, we did.

21

22

Q And what kind of stone was this, by the way,
that the men had loaded on that occasion and dumped
up at Mr. Daley's place?

23

24

A Three-eighths stone, but it was awful dirty.

25

Q In ot her words, it was -- I will withdraw that.

1 Did you have any other conversation with Mr.
2 Daley that day about the amount of stone he needed?
3

4 A Yes, yes. We had a spot that wasn't
5 finished from the road out.

6 He said to me, "How many loads will that
7 take?"

8 I said, "Seven or eight."

9 He said, "Will you get them?"

10 I said, "It is late. We will come up next
11 Saturday with them.

12 So I loaded up that Friday at Hudson Cement.

13 Q So he said that was okay?

14 A Yes. I loaded up that Friday at Hudson
15 Cement.

16 Q Which Friday night is this?

17 A That would be the 10th. I loaded up that
18 Friday night and we left --

19 Q Before you get to that, did you call anybody
20 in anticipation of loading up that Friday night?

21 A I don't recall that. I don't recall who I
22 called or what I did that night. The only thing I
23 can recall, I know we loaded the trucks that Friday
24 night.

25 Q How many trucks were there at Hudson Cement

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9 gwsr Clausi - direct

on Friday night, the 10th?

A About seven or eight.

Q And what did you do then?

A We loaded them on Friday night and Spada's truck was parked down by Spada's.

Q What did you load the truck with?

A Three-eighths stone.

Q The same stuff on all three occasions?

A Yes.

Q When you said it was dirty, by the way, what do you mean by that?

A It was dirty stone.

THE COURT: They take it out of the ground and usually wash it before they deliver it, is that right?

THE WITNESS: Yes.

THE COURT: They didn't wash this?

THE WITNESS: It was dirty stone. I wouldn't recommend it for blacktop.

Q Could you recognize the difference between three-eighths stone and screenings?

A Yes, I can.

Q What are screenings?

A Stone dust, very fine.

Q Were any of these trucks loaded up on any

1 2 lhr

Clausi - direct

A71
237

2 Q Which telephone call is this?

3 A When he told me to load the stone up.

4 Q Tell us what your recollection of that phone
5 conversation is now.

6 A My recollection is this, that he told me to get
7 a hold of Bob Kozlowski and Mike Spada and have the trucks
8 loaded with stone at Hudson Cement to go to Ted Daley's
9 place. I said "Well, I don't know where the place is."

10 He said, "It is in Windham."

11 I said, "I don't know where it is."

12 He said, "I will meet you at Spada's garage
13 and I will guide you up there."

14 Q When you called Koslowski and Spada, did you-
15 say anything about Daley?

16 A Yes. I told them that we had to bring stone
17 to Ted Daley's, but I didn't know where it was, but Tony
18 would be there to guide us up.

19 Q What caused you to recall that differently
20 how from the way you testified about it this morning?

21 A Where the word "duiding" comes in, he was going
22 to guid me but I didn't know where he was going to
23 guide me to. Then I remembered that he told me that the
24 stone was going to Ted Daley's and that's when I raised
25 the question with him, I don't know where Ted Daly's

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Clausi - direct

238

camp is. I didn't know even whether he had a camp. He said, "It is in Windham." I still didn't know where it was.

He said, "Meet me at Spada's garage and I will guide you there." That's where I was supposed to meet him.

Q During the deliveries of this stone, did any of the drivers who delivered the stone say anything to you about whether they wanted to be doing this driving or not?

A Well, they were all belly-aching to me about it.

Q What do you mean by that?

A Well, some of them were unhappy. I says, "Look, I am just as unhappy as you are, but if you have any gripes, don't pick it out on me. Call Mr. Alecca, call Mr. Daley."

Q What did the men say, if you recall?

A At that time, they just left it there. They were afraid I would carry the news back to Tony or Ted, which I never do.

Q What was the reason why you participated in this driving operation, stone hauling?

A Well, mostly for a favor, but you seem to

1 forget, I had a wife and three children, too, and I had
2 to work.

3
4 Q What do you mean by that?

5 A Well, from the feeling I got around the
6 union hall, you either did what you were told or you didn't
7 work.

8 Q L. my loads was the total number of loads
9 up there on these three different days you told us
10 about, the loads of stone to Daley's place in Windham?

11 A I can't give you an exact amount. It was
12 between 30 and 36 loads.

13 Q During all of these transactions, was there
14 any discussion that you can recall about halling waste
15 material up to Mr. Daley's camp in Windham?

16 A I don't understand you.

17 Q Was there ever any discussion about this
18 stone being waste material?

19 A No.

20 Q So far as you know, did any of the drivers
21 who hauled any of that stone get paid for the time they
22 spent on it?

23 A To the best of my knowledge?

24 Q Yes.

25 A No.

5 lhr

Clausi - direct

240 ^{A74}

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Q Did you get paid?

3

A No. I didn't expect any.

4

5

6

Q Did any of the trucking companies, that is either Mr. Spada or Mr. Koslowski, get paid anything for doing that hauling?

7

A To the best of my knowledge, no.

8

9

Q Do you know what the standard hourly wage rate was at that time for the Teamsters in 445?

10

A For the driver or the truck?

11

Q The driver.

12

A About \$6.90.

13

Q Per hour?

14

A Yes, sir.

15

16

Q Was there a standard rate for the trucks for hauling of this sort?

17

A I believe it was \$15 an hour, bare rental.

18

19

Q Did you ever have any discussions with Mr. Daley concerning any wooden beams?

20

A Yes, I did.

21

Q Where did that discussion occur?

22

23

A Down in Washington, D. C. We were picketing the International building.

24

Q When?

25

A In September of 1971.

1 6 lhr

Clausi - direct

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2 Q Would this be after the stone had been
3 delivered?

4 A Yes, it was.

5 Q What did Mr. Daley say to you, what did you
6 say to him, on the question of timbers?

7 A Well, I was sitting on a timber that was --
8 timbers in front of the International Building in
9 Washington.

10 Q Was this at a construction site of some sort?

11 A Yes. There was these twelve by twelve timber
12 and about twenty feet long, and I was sitting on one.
13 Ted come over and he pointed ot me, he smiled at me
14 and said "Tommy, what are you sitting on?"

15 I said "A timber." So I got up and I went
16 over to him. He said, "There is some on your job. Get
17 them for me."

18 Q What did you say to that?

19 A That was it.

20 Q Did you do anything concerning getting those
21 timbers after Mr. Daley spoke to you?

22 A Yes. When we all got on the bus to return
23 from Washington, I spoke to Bob Kozlowski. I said
24 "Ted wants some timbers."

25 He said "Talk to Eddie Hahn." He said "He

1 8 lhr Clausi - direct 243

2 Just tell me what you did after he spoke to you.

3 THE WITNESS: I sent a truck from Callanan
4 Road Improvement Company down to Pearl River, and --

5 Q Okay. Wait a minute. Before that, did you
6 have any other conversations with Mr. Daley during this
7 period of time?

8 A Me?

9 Q Yes.

10 A No.

11 Q How about with Mr. Alecca during this period
12 of time?

13 A Yes.

14 Q Where did those conversations occur?

15 A Mr. Alecca called me on the phone at the
16 Thruway a couple of times and he called me down his
17 house and told me a couple of times that Mr. Daley
18 was on his back about the timbers. I told him "I am not
19 stealing any timbers, I don't steal for myself and I
20 don't steal for nobody else."

21 Q Was that before or after you got the call
22 from Mr. Hahn?

23 A That was after I got the call from Mr.
24 Hahn. After those timbers from Pearl River had went
25 up.

9 lhr

Clausi - direct

244

Q Okay, so did you make arrangements to have the timbers from Pearl River taken up to Mr. Daley?

A Eddie Hahn made the arrangements. I made the arrangement with the truck.

Q Tell us who you talked to concerning the truck.

A I talked to John Callanan. I says --

Q First of all, who is John Callanan?

A John Callanan was the superintendent of Callanan Road Improvement Company on the Kingston Thruway, from Kingston to Saugerties, the job we had. I asked him, I says "John, there is some timber down at Pearl River and it has to be delivered up to Ted Daley's house in Windham. Can I send a truck down?"

He says "We are a little slow, take one of the trucks and send down -- who do you want to send?"

I sent Bob Kozlowski.

Q Did you give Mr. Kozlowski any instructions?

A I didn't know where the timber was. Bob Kozlowski knew Pearl River. I don't know where Pearl River is today.

Q Could you just mark on the map with a No. 2 with this black marker approximately where your construction job was on the New York Thruway?

1 11 lhr Clausi - direct 246

2 A It is south, some place near Yonkers, I

3 understand.

4 Q Do he departed in an employee truck, is that

5 right?

6 A That is right.

7 Q A while later did you see him with the truck

8 with something in it?

9 A He pulled out a job, and he told me he had

10 the timber.

11 Q Did you see the timber in it or not?

12 A No, I didn't.

13 Q Then did he depart again?

14 A Yes.

15 Q After that did you have any other conversations

16 with anyone concerning timber?

17 A Yes, I did.

18 Q Who with?

19 A Tony Alecca.

20 Q What did Mr. Alecca say to you and what did you

21 say to him?

22 A He called me on the phone and he said "Ted

23 is hot. He wants the timber."

24 I said "Tony, where are you?"

25 He said "At the office."

12 lhr

Clausi - direct

247

1
2 I said "I will call you back." I went out on
3 the Thruway to John Callanan who was the superintendent
4 of the Callanan Road Improvement Company. This is in
5 latter October or November because we were winding up
6 the job. I says, "John," I says, "I just got a call
7 from Tony Alecca. Ted Daley wants some of those beams.
8 Now, if you want to send them up to him, you send them
9 up."

10 He says "Tommy," this is what John Callanan
11 said, "Tommy, I am going to get you and I out of this
12 whole deal. I am going to call Doc Marcelle." Doc
13 Marcelle is the general manager of Callanan Road
14 Improvement Company.

15 I said, "Okay." He went in and talked to
16 Doc Marcelle. What the contents of that conversation
17 was, I don't know. He come back on the Thruway, John
18 Callanan, and he says to me, "Tommy, call Tony Alecca
19 and tell him to call Doc Marcelle." I called Tony
20 Alecca. I said "Tony, Doc wants to talk to you about
21 the timber." John Callanan come back about fifteen
22 minutes, he says, "Doc and Tony had a conversation with
23 the timber."

24 He says "Which truck do you want to go up?"

25 I said "Harley Williams is right there."

13 lhr

Clausi - direct

A-80
248

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He said "Allright, load them on Harley
Williams and send them up."

Tk 1B¹
PM

1hb-1

Clausi-direct

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Q What did you do then?

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A I guess they loaded the tumber on and sent

4

Harley up.

5

Q Did you see them load the timber?

6

A No.

7

Q Did you give Harley William any instructions?

8

A Yes.

9

Q What did you tell him?

10

A That they were going to hold timber on his

11

truck and he was to take them up to Ted Daley's camp where

12

we delivered the stone.

13

Q When you first talked to Kozlowski about the

14

first load of timber, did Kozlowski say anything in response

15

to your telling him to take the timber up to Mr.Daley's?

16

A I don't recall.

17

Q Did he say anything about whether he wanted to

18

do it or not?

19

A I don't recall.

20

Q Did you have any discussion with Mr.Kozlowski

21

about when he would do it?

22

A I don't recall that.

23

Q Do you know whether Mr. Kozlowski when he took

24

the timber up to Windham from Pearl River or Mr.Williams,

25

when he took -- Harley Williams, when he took the timber

gab-8

Clausi-cross

1 gab-8
2 A Yes.

3 Q Now, sir, who appointed you as shop steward?

4 A Well, I don't know. Ted told me he appointed me,
5 Tony told me he appointed me. You take your pick.

6 Q So to this day you don't know who made you
7 sthop steward?

8 A No. I know Ted made me the shop steward on
9 Thale because he told me down in Florida.

10 [Q In order to get people to drive up there,
11 did you threaten anybody?

12 A I did not and I never was told to threaten any-
13 body.]

14 Q You told us on direct examination something
15 about this material this three-eighth stone, I think you
16 called it, sir.

17 A That's right.

18 Q Do you remember where in the yard it was located?
19 When I say "in the yard," I am talking about over at
20 Hudson Cement.

21 A Yes. It was located right near the river.

22 Q Were there other piles of material there, too,
23 called screenings?

24 A Yes, screenings, 3?*, Number 1, Number 2 and
25 Number 3.

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7 lhr

Clausi - cross

294

Clausi.

MR. WOHL: Did he ever tell Daley?

MR. NEWMAN: Yes.

MR. WOHL: I think that would be proper, if the foundation were laid as to when he said it and it occurred at a point when state of mind would be in issue. But that foundation hasn't been laid.

THE COURT: Is he allegedly a victim as well as a co-conspirator?

MR. WOHL: I think that's probably right.

THE COURT: Do you want to ask him what he said?

[In open court:]

Q Did you ever tell Mr. Daley, sir, these railroad ties were rejects?

A Mr. Daley?

Q Yes

A I never talked to Mr. Daley about them railroad ties.

Q You only taked to Alecca?

A I didn't see the Maggiola beams.

Q Did you ever tell Alecca, however, that they were rejects?

A I did not see them, so how could I tell him?

1
2 of the witness' mouth that can be evidence, not anything
3 that comes out of judges' or lawyers' mouths.

4 Q Did you ever tell anybody that no pressure,
5 either direct or indirect, was put on anybody to get
6 that material driven from Hudson Cement to Mr. Daley's
7 property?

8 A Yes, sir. Ted Daley or Tony Alecca never put
9 any pressure on me. They never threatened me. I told
10 you that before.

11 Q Did you ever tell anybody that no pressure
12 of any kind, direct or indirect, or implied or subtle or
13 otherwise, was put on anybody from Hudson Cement to get
14 that material delivered up there?

15 MR. WOHL: Objection.

16 A I don't know who --

17 MR. WOHL: Objection. Your Honor, A, there
18 is no way the witness could be competent to testify as
19 to what pressure anybody else put on anybody.

20 THE COURT: You can ask him whether he knows,
21 to the best of his knowledge, whether any such pressure
22 was put.

23 THE WITNESS: No, I don't, your Honor.

24 Q Did you ever tell anybody that no pressure --

25 THE COURT: Then I will sustain the objection.

1 lhb-11

Clausi-cross

2 so that solves that.

3 (In open court.)

4 BY MR. NEWMAN:

5 Q Did Mr. Alecca tell you that he would go to any
6 lengths to get Mr. Daley out of office?

7 A Yes.

8 Q Did Mr. Kozlowski tell you that he would go to
9 any lengths to get Mr. Daley out of office?

10 A Yes.

11 Q Did Mr. Daley ever tell you to steal anything for
12 him?

13 A No, sir.

14 Q Did Mr. Daley in any way, shape or form
15 ever tell you that you should tell the truck drivers that
16 all those -rivers who drive will help themselves if they
17 drive for him?

18 A No.

19 Q Did he tell you that anybody who doesn't drive,
20 you tell them that they would get hurt by losing their
21 jobs, or anything like that?

22 A No.

23 Q And, sir, is it the custom within that union
24 and that situation for people to use other people's names,
25 and by that I mean, did you ever have occasion where

Q Well, was there a practice up there for everybody to use everybody's name? In other words, would some people call you from time to time and say, "Tommy, do this and this because Ted Daley wants you to do it"?

A The only one that done that was Tony Alecca.

Q Would he do that from time to time, Mr. Alecca?

A He did it two times when he called me for the stone and the timbers. He told me it was for Mr. Daley.

Q Did Mr. Daley ever ask you to pressure anybody to do any of these things?

A No.

Q And did you pressure anybody?

A No.

Q And did you conspire with anybody to extort --

A I never conspired to do anything.

Q And, sir, just once again, were you shocked when somebody from the United States Attorney's office told you that you were named as a co-conspirator?

A An unindicted co-conspirator.

Q An unindicted co-conspirator. Were you shocked?

A Yes.

Q And this was after you came to the grand jury and testified?

A Yes.

gwb-4

Clausi-redirect

Q Did Alton Stewart initially refuse to go up and haul the stone?

A Not to me.

Q And did you tell Alton Stewart that he had better haul that stone or he wouldn't work?

A Mr. Wohl, I never threatened anybody.

THE COURT: You never said that to him?

THE WITNESS: That's correct.

Q When a job ends, one of these construction jobs, from time to time do they have what you have referred to as fill left over?

A Yes.

Q Ordinarily, what do they do with this fill which you have told us is boulders and tree stumps and dirt?

A Anybody who wants it, get it on the trucks and get rid of it.

Q Suppose nobody comes by to pick up this fill, then what do they have to do with it?

A Then I have to go and look -- I am talking about my job. I have to go and look for a space to dump. The only space I had to dump was behind my house and Tony's house.

Q Is that how the fill got to your house and Tony's house from time to time?

7 lhr

Bockelmann - direct

1
2 THE WITNESS: There was quite a few of them,
3 your Honor.

4 Q Did you have any conversations while you were
5 at Hudson Cement?

6 A Yes. When I got to Hudson Cement, that's
7 when I found out where I had to deliver the load.

8 Q What did you find out?

9 A I had to go to Windham.

10 Q Were you told anything more specific than that?

11 A I had to take it up to --

12 THE COURT: Do you remember who told you to
13 take it up to Windham?

14 THE WITNESS: No, your Honor, I don't.
15 I don't know -- exactly remember who told me I had to go
16 up to Windham.

17 Q You were going to tell me specifically if
18 you were told to go to Windham.

19 A I was told I had to go to Windham, yes.

20 Q Was that the extent of your instruction?

21 A I had to take it up to Mr. Daley's camp in
22 Windham.

23 Q Then what happened?

24 A Well, I had -- when I left the house with my
25 one truck, I had my three and a half year old baby with

1 lhb-3

Bockelmann-direct

2 property, I observed that it was very dark, first of all,
3 and, second of all, I seen there when I was there, I seen
4 an arch when I backed in underneath the arch to get behind
5 this property . I noticed a piece of equipment sitting
6 there, and the house.

7 That is about as much as I could see.

8 Q You mentioned an arch. What type of arch was
9 that?

10 A It was two poles with a wooden, how would I say,
11 like an arch, over it or a cross members. Similar to this.
12 Do you understand what I am -- it was an archway between
13 his driveways.

14 Q You said that near that arch there was a piece
15 of equipment.

16 A Yes, sir, there was.

17 Q Type type of equipment was that?

18 A A bulldozer.

19 Q Do you remember anything about the bulldozer?

20 A It was a small piece of equipment. It was
21 painted yellow. It wasn't a large one. It was a small one.

22 Q Did you see any other trucks up there?

23 A Yes, sir. I seen quite a few of them. I can't
24 say how many for sure, but there was more than ten, I will
25 guarantee you that.

gwb-12

Bockelmann-direct

364

cross

Q To your knowledge, who ran the union and the union hall?

A Mr. Daley.

Q At the time you were told to make these trips to Windham or to let your trucks go, what were your reasons for going?

A Well, at the time I was working on the Thruway, and the reason I went was to insure my job.

Q And what do you believe would have happened if you had refused to go?

A Maybe there would have been no more work for me some place.

MR. HANDAL: I am done, your Honor.

CROSS-EXAMINATION

BY MR. NEWMAN:

Q Good morning, Mr. Bockelmann.

A Good morning.

Q I am curious about one thing. Mr. Clausi said you stopped off and had some liquor, you said you had some beer. Could it have been a beer chaser to the liquor?

A It's very possible.

Q I was just curious.

A Very possible.

Q Now, sir, in addition to that we were all

2 gwsr

Bockelmann - cross

A I am his sister's husband.

Q Is it a fact, sir, that -- withdrawn.

When did you marry Mr. Kozlowski's sister?

A '60.

Q Is it fair to say you and the Koslowskis
are close?

A We are brother-in-laws.

Q As a result, are you close?

A No, we are not a friendly family that we go
and eat at each other's house.

Q Did you do any trucking work for him?

A As far as what?

Q Did he hire your truck on a number of jobs?

A He didn't buy me no truck.

Q Did he hire you?

A He hired me, yes. I thought you said buy.

Q Hire.

A He hired me, yes.

Q On how many occasions?

A A few times. Four or five times.

Q Isn't it a fact within the union in the heavy
trucking industry that each owner-operator has the right
to have certain drivers he can assign from time to time
as his own preferred driver?

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A His own drivers?

Q Yes.

A Yes, a lot of owner-operators have their own drivers on their payroll.

Q And these drivers stay with these owner-operators continually, don't they?

A If the owner-operator treats them right, I guess they do.

Q Did you have that relationship with Mr. Kozlowski?

A No, in no way.

Q Were there other drivers, to your knowledge, who did?

A Not that I know of, no.

Q Sir, on the job in question in 1971, that was the Callanan job, is that right?

A Yes.

Q And you were driving your own truck, is that right?

A I was driving one of my own trucks, yes.

Q How long did you continue to work for Callanan?

THE COURT: After that time ?

MR. NEWMAN: Yes.

A I believe it was not more than a month, a month

1 4 gwsr Bockelmann - cross

2 and a half at the most. October, I believe we got laid
3 off.

4 Q After that, sir, did you tell Mr. Handal that
5 you went to work on 213, Interstate 213? Did you use
6 that?

7 A Interstate 213?

8 Q Yes. What road did you go to work on after
9 that?

10 A I went up north. The next year I went up
11 north.

12 Q Which is where?

13 A On the Northway.

14 Q Which is in what county?

15 A It is -- what county is Lake George in?

16 Q I haven't the vaguest idea.

17 A I don't know either.

18 Q Did you go to work for another Teamsters
19 union?

20 A I went out of my local, yes, at the time. I
21 worked in the 294 area.

22 Q And 294 was a Teamsters union?

23 A Yes.

24 Q In order to do that did you have to clear it
25 with 445?

1
2 Q Let me understand something. Do I understand
3 it correctly, then, that you have the right as an owner
4 of a truck to go out and find jobs on your own?

5 A I have a right to go out and find work to feed
6 my family.

7 Q Absolutely, and do you have a right as a
8 union member to go out as an owner of a truck and find
9 jobs on your own?

10 A Work is work and I tell you, yes, I say yes,
11 you have to, yes.

12 Q As a result of that, therefore, you are not
13 solely dependent on the union for your work, is that
14 right --

15 THE COURT: Mr. Newman, keep your voice down.

16 MR. NEWMAN: I am sorry.

17 A No.

18 Q Do you know, sir, as a result of that, want
19 to tell me whether you are solely dependent on the union
20 for getting work?

21 A You couldn't. You couldn't. Because I didn't
22 get enough work to keep my family supplied with food.

23 Q But you were able to go out on your own
24 volition and find a contractor you could work for?

25 A A contractor or my own jobs, yes.

12 gwsr

Bockelmann - cross

382

1 Q Didn't there come a time, sir, when you
2 relocated on your own to Local 294?
3

4 A Yes.

5 Q And did you start working for a man who
6 was a non-union contractor?

7 A Oh, yes.

8 Q And was it as a result of that that you crossed
9 a picket line, sir?

10 A Yes, sir.

11 Q And was it as a result of that that you had
12 difficulties with the union?

13 A No, sir, not as a result of that, no.

14 Q Did the union see you cross this picket line?

15 A Yes, sir.

16 Q As a result of that, did they decline or did
17 they call you a strike breaker and refuse to give you
18 work?

19 A They called me -- yes, they did.

20 Q Now, as a result of that, sir, did you then
21 work for the same non-union contractor?

22 A Yes, sir.

23 Q And did you continue to work for him?

24 A Yes, sir.

25 Q And, sir, you continued to work for him from

1 14 lhr

Forte - direct

A 96
401-402

2 A Callanan Industries, Callanan Road Improvement.

3 Q Is that a union contractor?

4 A Yes, sir.

5 Q Had you at that time been admitted to the
6 union, at the time you were working on that?

7 A Not when I started on the job, I wasn't,
8 I didn't belong to the union.

9 Q Under what arrangement was that? How did
10 that happen?

11 A Well, I went to work there with the under-
12 standing that I had to join the union and be initiated,
13 pay the initiation fee and go through the procedure of
14 joining the union.

15 Q What were you doing on that job?

16 A Driving a truck.

17 Q Whose truck were you driving?

18 A Bob Kozlowski's.

19 Q Did there come a time in September of 1971
20 when you were told to make an extra haul after work?

21 A Yes.

22 Q Who told you this?

23 A I think Bob Kozlowski did, the first time.

24 Q When did this conversation take place?

25 A At his barn.

16 lhr

Forte - direct

403

Q Pardon me?

A At his barn, down where he keeps his trucks.

Q Yes, but when did it take place?

A After work. The end of the day.

Q Do you remember the date?

A No, I don't. It was on a Friday.

Q Would a calendar help you to refresh your recollection?

A It was on the Labor Day weekend. It was the Friday after it, I guess. I don't know. It was on the holiday weekend.

Q In this conversation with Mr. Kozlowski, what was the substance of that?

A He just said to go out to Hudson Cement with the truck and they would say where to go from there.

Q Did he tell you what to do at Hudson Cement?

A He didn't know himself. I had to go out there and wait, and we found out then. We found out then once we got there, they told us to -- I weighed up out there, the cement plant, and was told to go across the road to the stone pile and load up with stone. There was other trucks there. I loaded up with the stone, and then I waited and they told me to go to Windham. I was told to meet Tom Clausi at an ice cream stand

1 lhb-10

Forte-direct

2 A Mr.Daley.

3 Q At the various times you were told to make
4 these three trips to haul stone to Mr.Daley's place in
5 Windham, what were your reasons for going?

6 A Well, at the time I didn't belong to the union,
7 and I wanted to join, and I was also told that if I didn't
8 go, that "don't bother coming to work Monday," or something
9 alone these lines. But my job was threatened.

10 Q Do you remember who told you this?

11 A Tom Clausi.

12 Q What did you think would happen if you didn't
13 go?

14 A Probably would have laid me off, or something.
15 I don't know. I don't know what would have happened,
16 really. I didn't want to find out either.

17 Q One last question, Mr.Forte. The first time --
18 what was it that you carried up to Windham?

19 A Stone.

20 Q Do you know what type of stone?

21 A 3/8. I believe it would be a 3/8, the size
22 of the stone.

23 Q Do you know what you carried the second and
24 third times?

25 A The same stuff.

1
2 may lose my job.

3 Q It wasn't Mr. Daley who said that to you, was it?

4 A No.

5 Q It was Mr. Clausi, the Mayor of East Kingston,
6 who said that to you?

7 A I didn't know his political standing.

8 Q It was Mr. Clausi?

9 A Yes.

10 Q We are talking about the same Tom Clausi?

11 A Right.

12 Q He threatened you, in words or substance, that
13 if you don't drive these three times, you won't be working?

14 A He didn't say any number of times, but when he
15 did tell me it was to do with this matter.

16 Q In other words, using the language that he
17 used -- what did he say to you that caused you to believe
18 your job was in jeopardy or as you put it, your job was
19 threatened? What did Mr. Clausi say to you?

20 A I don't remember his exact words.

21 Q Do you remember anything approximating his
22 exact words, the substance of it?

23 A Yes. Like I just said, he told me something
24 somewhere along the line, "Go or don't show up Monday."

25 Q This was Clausi who said this to you?

gwb-2

Forte-cross

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2 Q You appeared before the grand jury; you don't
3 remember what questions and answers you gave, is that
4 right?

5 THE WITNESS: No.

6 MR. NEWMAN: I am looking at RSC10.

7 Q Sir, were you asked this question and did you
8 make this answer:

9 "Q At the time that you took those trips, what was
10 on your mind, - at the time that you took those trips?
11 In other words, why is it that you volunteered your time to
12 make those trips?"

13 Do you remember that question being asked of you,
14 sir?

15 A I don't remember any of the questions in the
16 grand jury.

17 Q Do you remember, sir, giving this answer
18 before the grand jury:

19 "A Well, at first - you know- I didn't know what
20 was going on or anything - you know- why; so I figured - you
21 know- what the heck, I'd go up. And then later on I
22 was told - you know - by a few other drivers that - you
23 know - if I didn't go up - you know - it was only rumors -
24 you know- as far as I was concerned- that I might never
25 work again for that union - you know. It could be - you

gwb-3

Forte-cross

know - lead up to bad circumstances for me."

Sir, did you give that answer?

A I may have, yes.

Q If you remember, sir, do you recall the question I just read to you, sir?

A No, I don't.

Q In any event, sir, let me ask you this: In 1971, in or about September, you were not yet an official union member, is that correct, sir?

A No, I wasn't.

Q In other words, what I am asking is correct, you didn't have a remember union book, right?

A No. No, I didn't.

Q The answer is you did not have a union book. Okay.

Now, you were working for Callanan, right?

A Yes, sir.

Q Who got you the job for Callanan?

A Well, when I went there, I went to work for Robert Kozlowski.

Q Did Tony Alecca put you to work?

A I have no idea. I don't know who actually put me to work, but I guess I was indirectly working for Kozlowski. I was driving his truck, but I wasn't being

gwb-5

Forte-cross

1 A I don't know who was directly responsible for
2 it, but I was sent down there by Kozlowski.

3 Q Is it fair to say that you spent a lot of
4 time in those years with Mr. Kozlowski?

5 A Yes, sir.

6 Q And is he a friend of yours, sir?

7 A Naturally.

8 Q And do you hang around what they call the Koz-
9 lowski barn or garage?

10 A Yes, I did.

11 Q And you say you did, sir; did there come a point
12 when you stopped?

13 A Well, I don't go around there as much now
14 as I did when I worked there.

15 Q Whendid you stop working there?

16 A I believe in '74.

17 Q So I understand it correctly, from '71 through
18 '74, were some periods off because of the weather, you
19 were working for Kozlowski and as a member of 445, right?

20 A Yes, sir.

21 Q Am I correct the you got during that
22 period you got through Kozlowski, is that right?

23 A Yes, sir.

24 Q And Kozlowski would put you to work on his
25

1 gwb-6

Forte-cross

A-103
426

2 trucks, right?

3 A I imagine his trucks was being put to work by --

4 THE COURT: Don't tell us what you imagine.

5 All you know is you worked for him.

6 THE WITNESS: Yes, I worked for him.

7 Q And he would give you the jobs, right?

8 A Yes, sir.

9 Q Now, if you know, sir, up in that area around
10 Kingston in '74 and through '75, did conditions get very
11 bad as far as truck drivers are concerned?

12 A Things started to slack off pretty good, yes.

13 Q And a lot of men were out of work, is that
14 fair to say?

15 A Yes, sir.

16 THE COURT: What period are you talking about?

17 THE WITNESS: I would say probably starting in
18 '74, 1974.

19 MR. NEWMAN: That is the period I mentioned
20 to the gentleman, sir.

21 Q And that continues, as far as you know, up to the
22 present time?

23 A Yes, sir.

24 Q There came a period of time, did there not,
25 when you went down to Florida?

5 gwsr

T. Turco - direct

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from Mr. Wohl or any suggestion in any question by Mr. Wohl that the witness knows he can be prosecuted for perjury because I think everyone who takes the oath can be prosecuted for perjury. It doesn't run into the immunity question. It might have an impression on the jury. I think it is wrong to single him out.

THE COURT: I will not say it is not admissible but I will ask Mr. Wohl not to go into this unless any questions of yours suggest he has to.

MR. NEWMAN: Fine.

MR. WOHL: All right.

[In open court:]

BY MR. WOHL:

Q How are you employed, Mr. Turco?

A I work for Hudson Cement as the superintendent.

Q And how long have you worked there?

A About eighteen years, nineteen years.

Q And where is Hudson Cement located?

A In Kingston, New York.

Q And can you tell us what kind of plant it is there?

A It is a cement plant first and it has a stone weight and a light weight aggregate plant all in one complex.

What was your job at Hudson Cement in 1971?

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6 gwsr T. Turco - direct

A Operating superintendent.

Q Can you tell us what that entailed?

A I was the overseer of other foremen that ran the plant, you know, the operation of the cement plant.

Q Can you tell us what the stone part of the Hudson Cement operation was at that time? Just describe what the operation was.

A It was a crushed stone operation. You crushed larger rock into smaller size stone that was used in concrete.

Q As an ordinary matter, what did Hudson Cement do with the stone that it crushed?

A I would say 99 percent of it went on a barge and was shipped to New York City.

Q On a barge on the Hudson River?

A Right.

Q Was your plant located right on the bank of the Hudson River?

A Yes, that's right.

Q Part of your plant consist of piers?

A Docks, yes.

Q What kinds of stone did you or your company from time to time put on these barges?

A Well, we had I think four or five categories.

7 gwsr T. Turco - direct

Inch and a half, three-quarters, three-eighths and screening material.

Q Would you describe for us what the three-eighths stone was?

A It is a small stone that passes through a 7/16 screen and a quarter inch screen. It is screened out. It is a very small, fine stone.

Q What is it ordinarily used for?

A To be used in concrete for special applications. To get behind a form that is very small and you can't use big rock. It is also used in blacktop, stuff like that.

Q You mentioned the word "screenings." What are screenings?

A This is the overburden material and a mixture of stone chips. When we crush the stone we have to scalp the stone and take most of the earth particles out. They have mixed in with the screenings and the stone chips are too fine to be used any place else.

Q Are the screenings sold from time to time?

A Yes, they were.

Q What are they ordinarily used for?

A Base, road bases, fill, backfill, anything you would want to fill you could use it for a fill.

8 gwsr

T. Turco - direct

Q Is there another material called overburden that you have from time to time at Hudson Cement?

A Yes. That would be the material in the quarry. We would strip the top of the quarry. We would strip the earth or whatever layer, six inches or whatever it is of earth off. You want to take the dirt off.

Daley

1

1 lhr

T. Turco - direct

438

• 4A

2

Q And that's this overburden, is that right?

3

A Right.

4

Q Did you know or do you know Tony Alecca?

5

A Yes, I do.

6

Q Did there come a time when Mr. Alecca asked

7

you for some material?

8

A Yes.

9

Q When did that occur?

10

A To the best of my recollection, somewhere

11

in '71, I believe it was. Around Labor Day of '71.

12

Something like that.

13

Q Did he make this request in person or over the

14

telephone?

15

A It was in person, at the plant.

16

Q What did he say to you and what did you say

17

to him?

18

A He said he needed some material for a parking

19

lot in the roadway, and I said to him, well, you know,

20

I would go to Bob Greene and ask Mr. Greene, which was

21

my superior, if it was all right to give him the material.

22

Q Did Mr. Alecca at that time say what kind of

23

material it was that he wanted?

24

A No. Not necessarily. When he said parking

25

lot, to my mind it probably meant screens.

2 lhr

T. Turco - direct

1
2 Q Do you remember what your prices were at that
3 time?

4 A No. See, we didn't do any of the building
5 there, but I can say probably about \$1.50 for screenings
6 and \$2 or maybe \$2.25 for 3/8, something like that. It
7 might be more.. I don't know.

8 Q I gather your other kinds of stone were larger
9 than 3/8?

10 A Right, for concrete.

11 Q Who was Mr. Greene at that time?

12 A He is the general manager. He is my boss.

13 Q After you told Mr. Alecca that you checked
14 with Mr. Greene, what did you do?

15 A I didn't do anything for awhile. This was
16 sometime before they came to pick up any material, so I
17 told Bob.

18 Q You had a conversation with Mr. Greene?

19 A With Bob, right, and he kind of shrugged it
20 off, and he said "We will see, you know, let it go."

21 Q Did there come a time when you had another
22 conversation concerning this project of Mr. Alecca's?

23 A I believe the next time it happened, it was
24 when they called up and said they were coming for material.

25 Q Who called?

1 3 lhr T. Turco - direct

2 A Tom Clausi.

3 Q Mr. Clausi?

4 A Right.

5 Q What did Mr. Clausi say to you and what did
6 you say to him in that conversation?

7 A Well, to the best of my recollection, he
8 said he was coming down to get material.

9 Q What did you say?

10 A I says "What material"? He said "The
11 material that Tony had talked about".

12 Q What did you say then?

13 A I said, "Well, if it is all right with Bob,
14 it is all right." I believe --

15 Q I am sorry.

16 A I believe I checked it out with Bob. I don't
17 know if he was there or not, but I think I checked it
18 out with Bob, and he said "Okay, all right, go ahead and
19 give it to him".

20 Q Did you have a conversation with Mr. Greene
21 at that time?

22 A No, not really. Just whether or not it
23 was okay to come in or not.

24 Q What did he say?

25 A Okay.

4 lhr T. Turco - direct

Q In any of these conversations with Mr. Alecca at this point, was there any discussion of how much material he wanted?

A No.

Q What happened next?

A Some trucks arrived around quitting time that night.

Q What time would quitting time be?

A Around 4:30, five o'clock, something like that. In the afternoon. It was late afternoon.

Q Do you remember what the date was when this occurred?

A No, I don't.

Q Do you remember what day of the week it was?

A I think it was a Friday.

Q Did you talk with anyone who arrived at about that time?

A I talked to Tom Clausi.

Q When you say Tom Clausi, you are referring to Tom Clausi, right?

A Yes.

Q You used those names sort of interchangeably.

A That's what we call him at Kingston.

5 lhr

T. Turco - direct

Q When you spoke to Tom Clausi, what did he say and what did you say at that time when he arrived with these trucks?

A I believe I said something to him about "What are you going to do with all this material", or something like that, and I don't remember now -- he said something like "We are going to haul it up to the boss' house", or something like that, something to that effect.

Q Did you know who he meant by "the boss"?

A Yes.

Q Who did he mean by "the boss", to you?

A To me, it was Mr. Daley.

Q Did you have any further discussion with Mr. with Mr. Clausi at that time?

A No, not too much, except to tell him that it was all right, and told him where to go down to the stone plant and pick up the material.

Q At about that time did you have to issue any instructions to anyone else working for Hudson Cement?

A Yes, I did.

Q Whom did you have to issue instructions to?

A I told the stone plant foreman that they would be down for material and to get a payloader, which was

6 lhr T. Turco - direct

to be used to load the trucks, so that they could load the trucks.

Q You had several different piles of material there, is that right?

A Right.

Q Did you have to tell your foreman or the man on the loader what material to load onto these trucks?

A I didn't exactly tell the man. I gave the man the impression that they were going to take screenings.

Q Did you tell him that?

A No, I don't remember saying that to him. I told him that he wanted some material to build a road, and I thought that's what they were going to take at the time.

Q Did you have any discussion with Mr. Clausi about whether or not these trucks were supposed to weigh in or not?

A Yes. I told him we would weigh the trucks in.

Q Where was this conversation you had with Mr. Clausi?

A I believe right by the office, the main office of the plant.

1 7 lhr

T. Turco - direct

444

2 Q From there could you see the trucks that he
3 had with him?

4 A No, not all of them. I saw a couple of
5 them. I don't think they were all there at the
6 beginning.

7 Q How many did you see?

8 A I don't know. I don't remember that.

9 Q Did you talk over with Mr. Clausi how much
10 material he was going to take?

11 A Not at that time, no.

12 Q So what did you do then?

13 A I believe I probably went home, or soon after
14 that.

15 Q Did you come back to the Hudson Cement Com-
16 pany at some point?

17 A The next day.

18 Q That was a Saturday, right?

19 A Right.

20 Q At about what time?

21 A Probably seven o'clock, 7:30.

22 Q In the morning?

23 A Right.

24 Q Did you have occasion to talk to Mr. Clausi
25 again that day?

1 8 lhr

T. Turco - direct

2 A Yes. He called and said they were coming
3 again that day to get more material.

4 Q About what time did he call you, if you
5 recall?

6 A I don't remember. It probably was in the
7 morning, though.

8 Q What did he say and what did you say in that
9 conversation?

10 A I don't remember how it went. I think one
11 of the days I told him he couldn't come in there for
12 some reason or another, in the morning, that he could
13 come in later in the afternoon.

14 Q On this Saturday morning, did you have anyone
15 visiting the plant?

16 A Yes, we did.

17 Q Who was visiting the plant?

18 A One of the owners.

19 Q Who were the owners?

20 A Mr. Pope.

21 Q P-o-p-e?

22 A Right.

23 Q Did you mention that to Mr. Clausi?

24 A I might have.

25 Q Do you remember whether you did or not?

1 9 lhr

T. Turco - direct

446

2 A No, I don't remember. I think I did. I
3 think I said something like that.

4 Q What did you tell him on that score?

5 A That the boss was coming in, he couldn't get
6 any material in the morning.

7 THE-COURT: Mr. Greene was the boss?

8 THE WITNESS: This was the bigger boss, sir.

9 THE COURT: Was the manager?

10 THE WITNESS: This guy was the owner.

11 THE COURT: Pope was the owner?

12 THE WITNESS: Yes.

13 Q How long did you stay at the plant on that
14 Saturday?

15 A I believe until around noontime.

16 Q Did you see Mr. Clausi that day?

17 A I don't think I seen him that day, no. They
18 came in for material that day, but I didn't see him.

19 Q ~~On that day did you see any of the weight~~
20 ~~slips relating to the deliveries from the night before?~~

21 A Yes, I did.

22 Q Do you have those weight slips any more?

23 A No, I do not.

24 Q Have they been destroyed?

25 A Yes.

10 lhr

T. Turco - direct

447

Q What did those weight slips say, as well as you can remember?

A They just had weights on them and 3/8 stone on them, on most of the slips that I saw.

Q Did you discuss that with Mr. Clausi in your conversation?

A No, I did not. I may have just discussed, you know, how much material they are going to take.

Q What did Mr. Clausi say on that score?

A He said "Take it up with Tony Alecca."

Q Would you say that this conversation you had that morning was sort of an argument with Mr. Clausi?

A No, there was no reason to argue. Just a debate, if you want to say that.

Q A debate?

A Yes.

Q What do you mean by a debate?

A There was no argument about it.

THE COURT: You mean it wasn't unfriendly?

THE WITNESS: It wasn't unfriendly.

THE COURT: What were you debating about?

THE WITNESS: It was a lot more material than I thought they were going to take.

Q I gather that you left at twelve o'clock

1 11 lhr T. Turco - direct

2 noon that day and you didn't come back to the plant during
3 that afternoon, is that it?

4 A That is right.

5 Q Did you leave any instructions for anyone
6 else at the plant?

7 A Yes. There is people there 24 hours a day,
8 so I just left word that these trucks were to be loaded
9 and it would be all right.

10 Q At this point did you tell them what to load
11 on these trucks?

12 A No, I did not.

13 Q When was the next time you came back to the
14 plant?

15 A If that was the Labor Day weekend, it was
16 probably Tuesday.

17 Q Do you think it was the Labor Day weekend?

18 A I think it was, right. I am not sure.

19 Q What happened when you came back on Tuesday
20 concerning this particular stone, if anything?

21 A I talked to Mr. Greene about it.

22 Q At that time did you see more weight slips?

23 A Right.

24 Q What did those weight slips show?

25 A 3/8 stone.

12 lhr

T. Turco - direct

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Q Tell us what your conversation with Mr.

Greene was, what you said to him and what he said to you.

A I told Mr. Greene that they were taking 3/8 stone and had taken quite a few trucks, I don't remember the amount, but it might have been fifteen or eighteen trucks, and I says -- he said "Holy mackerel," you know, "that's quite a bit of material."

Q Was there anything further to that conversation?

A No, other than I think he says that he would check into it.

Q Did there come a time when something else happened concerned a project of taking stone?

A Yes. They came back one more time, I believe.

Q Did you receive any instructions concerning that?

A Yes. Mr. Greene said they were going to come back one more time and finish up the job.

Q When did he tell you that?

A Approximately a few days later. I don't really remember, a couple, three days later.

Q Was there anything else in that conversation?

A Other than they were going to finish up the

13 lhr

T. Turco - direct

1 job. There would be a few more loads to finish up the
2 jobor a couple more loads to finish up the job, something
3 like that.
4

5 Q Did you agree with Mr. Greene that he should
6 allow them to take the stone?

7 A Did I agree?

8 Q Yes.

9 A Yes, I probably would have gave him the
10 stone.

11 Q What was the reason that you agreed to let
12 him take the stone?

13 Well, first of all because they drive you
14 nuts if you didn't, you know.

15 Q What do you mean by they would drive you
16 nuts?

17 A They call you up or bug you, you know, just
18 a matter of speaking.

19 Q What did you think would happen if you didn't
20 let them take the stone?

21 A I didn't really -- no, except they wwould be
22 a pain in the neck, pain in the rear end. Let's put
23 it that way.

24 Q Who would be a pain in the neck?

25 A Tommy and Tony and I guess that's about it.

1
2 Q What did you think would happen if they
3 were a pain in the neck?

4 A They just drive you crazy, that's all. Be a
5 pain in the neck. It would be something that you,
6 you know, you like to wash it out of you. You don't
7 want to get involved.

8 Q Did you think they would do anything that
9 would cause them to be a pain in the neck?

10 A No. You don't think they were going to doing
11 anything that would be physical or anything like that.
12 They would just be a pain in the neck about their union
13 people and we had people there working, and they would
14 be a pain in the neck, that is all.

15 Q Did you have Local 445 people working at
16 Hudson Cement at that time?

17 A Yes, we did.

18 Q How many?

19 A I believe about 20 or 25 in the quarry and
20 we had some driving tank trucks, delivery trucks.

21 Q These would be the over the road drivers?

22 A Right, they would be the over the road
23 drivers.

24 Q Can you be more specific in telling us what
25 you thought would be a pain in the neck if you did not

1 15 lhr

T. Turco - direct

452

2 agree with giving the stone?

3 A Well, any little argument that can come up
4 would be nit-picking. You know, it is arguments w
5 grievances and stuff like that in the cement plant.
6 That's my opinion, now.

7 Q Little arguments between who and who?

8 A Between the union and management.

9 Q Was there an ordinary practice at Hudson
10 Cement at that time concerning the making up of these
11 weight tickets?

12 A Yes, there is.

13 Q That ordinary practice related to the
14 normal sales of stone and other material, is that right?

15 A Right.

16 Q What was the ordinary practice concerning
17 normal sales?

18 A The tickets went -- the tickets were made and
19 sent to New York, and they were billed out of New York.

20 Q Was there a separate ticket for each load
21 ordinarily?

22 A Yes.

23 Q Did you look at the tickets related to this
24 particular activity that you have told us about for
25 3/8 stone?

16 lhr

T. Turco - direct

453

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A Yes.

Q Do you recall about how many loads those tickets showed had been taken out of 3/8 stone?

A I would say about 25 or 30, approximately.

Q Were you told whether or not there were loads taken out for which there were no tickets?

A No, I was not.

Q So far as you know, was Hudson Cement ever paid for that stone?

A No.

Q So far as you know, did anybody ever offer to pay for that stone?

A Not to me.

Q From time to time did Hudson Cement have union negotiations?

A Oh, yes.

Q Was one of the unions they negotiated with Local 445?

A Yes, it was.

Q It also negotiated with other unions?

A Right.

Q How many other unions were there?

A Local 825, the Operating Engineers, and Local 17, the International Laborers, I believe it is.

17 lhr

T. Turco - direct

454

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Q Who was the negotiator for Hudson Cement?

A Mr. Greene.

Q Who was the negotiator for the union, ordinarily?

A Tony Alecca, at that time.

Q During the period September, 1971, were the union negotiations with 445 in progress?

A I believe so.

Q Sometime later did Mr. Alecca ever ask you about those weight tickets?

A Yes, he did.

Q Do you recall about when that was?

A I think it was in the spring of '72. I don't remember the date.

Q Are you sure it was '72 rather than '73?

A No, I am not positive, no. It could be '73.

Q Where did this conversation occur?

A I don't remember if that was over the phone or in person. I don't remember.

Q At that time did you have the weight tickets or some of them in your possession?

A I didn't know for sure if I had them in my possession. I told him if they were there, I would get them. I went back and looked and found some, right.

18 lhr

T. Turco - direct

455

Q What did Mr. Alecca ask you to do with the weight tickets?

A He didn't ask me to do anything. He wanted them. He asked me if I had them, he would want them.

Q Would you tell us what that conversation was, what he said to you and what you said to him in that conversation?

A I guess him and Mr. Daley had had a falling out, and he --

Q Did he say that to you?

A Yes. He said he needed the tickets.

Q Just tell us what he said and what you said.

A I can't quote --

THE COURT: Don't tell us what you guess.

Just tell us what you remember him saying.

THE WITNESS: I remember him saying something about these tickets would help him against Mr. Daley, and naturally, me wanting to be friendly, I said okay, I would look into it.

Q Do you remember whether or not he said anything about the U. S. Government or the FBI?

A No, I don't recall him saying that.

Q In any event, you went back and found the tickets after that conversation, and what did you do with

19 lhr

T. Turco - direct

456

them?

A I found some of the tickets and I threw them away.

Q So have all the tickets been destroyed now?

A Right.

Q There came a time that Mr. Pope, the owner of Hudson Cement, found out about this transaction, is that right?

A When the FBI came, right.

Q Did you thereafter have a conversation with Mr. Pope about this transaction?

A I wouldn't call it a conversation. I would say it was one-sided.

Q Who was doing the talking?

A Mr. Pope.

Q Can you tell us --

A No, there is too many women here.

Q -- in polite language what he said?

A No, I can't. I will tell you what he meant, though.

Q Would it be fair to say he criticized you?

A A little bit. Plus some more.

THE COURT: Chewed you out?

THE WITNESS: Very mildly, sir. The names

1 20 lhr T. Turco - direct 457

2 he called me would be fighting with somebody else.

3 Q Does Hudson Cement still employ Local 445
4 Teamsters?

5 A We are not -- yes, we do. We have some tankers
6 running, right, we still have.

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Tk 4B
AM

1hb-1

Turco-cross

MR. WOHL: No further questions, your Honor.

CROSS-EXAMINATION

BY MR. NEWMAN:

Q Good afternoon, Mr. Turco.

A Good afternoon. It is afternoon.

Q We won't keep you too long. Mr. Turco, you knew Tony Alecca for how long prior to 1971?

A Many, many years.

Q And Tom Clausi?

A Probably since I started work at the cement plant there.

Q Have you ever heard Mr. Clausi referred to as the Mayor of Kingston?

A Yes, I have.

Q Is that because of some particular attribute of his?

A I guess they think he is a politician.

Q Like he made some promises he can't fulfill, is that the idea?

A I imagine so.

MR. WOHL: I will object and move to strike the answer.

THE COURT: Sustained. The jury will disregard Mr. Newman's remark.

1hb-2

Turco-cross

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Q From time to time, sir, did Mr. Clausi have occasion to come around asking for some material?

A Yes.

Q Was this material screening?

A Yes.

Q From time to time, sir, did Mr. Alecca have occasion to come around and ask for screening?

A Yes, sometimes he would call me and ask for material.

Q When you say Tony, we are talking about Mr. Alecca, right?

A Right. Tony.

Q At that time you knew when you had given him the screening from time to time that Mr. Alecca was the president of the union, right?

A Right.

Q And on occasion he came around for small quantities of screening, right?

A Right.

Q And on occasions he came around for rather larger quantities of screening, is that fair to say?

MR. WOHL: Objection, unless we have some figure of what we mean by smaller and larger.

THE COURT: Overruled. You can get that on

1hb-3

Turco-cross

1 further cross-examination.

2 Q There came a time, did there not, where he
3 took approximately six loads or more of screening?

4 THE COURT: You are talking about Alecca?

5 MR. NEWMAN: Yes, sir, I am talking about
6 Alecca.

7 A I don't actually remember that, but it is poss-
8 ible.

9 Q If you don't remember, just tell us you don't
10 remember.

11 Did there come a time, sir, when Mr. Alecca
12 told you that he needed screening for a parking lot outside
13 the union hall?

14 A Oh, yes. Right.

15 Q And at that time, sir, did he come and get
16 screening?

17 A Yes, he did.

18 Q Was that before 1971, sir?

19 A Before this other incident, yes, it was.

20 Q If you remember, on the incident prior to '71
21 when Mr. Alecca came to get screening for the purpose of
22 the parking lot at the union hall, do you remember approx-
23 imately how many loads he got?

24 A No, I do not.

1hb-4

Turco-cross

Q You see Mr.Daley sitting here, do you, sir?

A Yes.

Q Have you ever met Mr.Daley?

A Once, I believe.

Q When was that, sir?

A At the Howard Johnson's motel uptown, at the restaurant.

Q Did you have a conversation with him?

A No. Just shook hands.

Q He was introduced to you and you were introduced to him?

A That's right.

Q How long did that whole thing last?

A Well, there was more people there, so four minutes, five minutes. That's it.

Q At that time did Mr.Daley ask you for any material or anything?

A No, he did not.

Q To this present day, has Mr.Daley ever asked you for any material?

A No, he has not.

Q Returning to Mr.Alecca, Mr. Wohl had asked you what did you mean by them being pests or what did you mean by them annoying you. Am I correct in assuming that

1 lhb-5 Turco-cross

2 from time to time either one of them or both of them would
3 come by and ask for different things?

4 A Right.

5 Q In addition to this screening that we are talking
6 about, were there occasions when they would come by
7 and ask for parts for their automobile or parts for their
8 truck?

9 A No, they didn't ask for parts for the trucks, but
10 maybe something they could use around the house, or some-
11 thing like that.

12 Q That would be Mr. Alecca and/or Mr. Clausi?

13 A Right.

14 Q On the occasion when Mr. Alecca came by and
15 asked you for material, he asked you for screening specific-
16 ally?

17 A I don't understand the question.

18 Q When Mr. Alecca would come by prior to 1971
19 and ask for material, would he ask for screening or would
20 you give him screening?

21 A He may ask for just some fill out of the quarry
22 too, I believe he took overburden, or something like that.

23 Q In addition to that, did he take screening?

24 A He may have taken some --

25 MR. WOHL: Objection to what he may have done.

1hb-6

Turco-cross

1 THE COURT: Yes. If you remember, tell us. If
2 you don't remember, just tell us you don't remember, Mr.
3 Turco.
4

5 THE WITNESS: Okay. I am sorry, sir.

6 THE COURT: It is all right, but, I mean,
7 it doesn't do us any good for you to say he may have,
8 because we know he may have.

9 Q Going to the situation prior to '71 when Mr.
10 Alecca asked for material to pave the parking lot or
11 around the parking lot of the union hall, at that time
12 did he ask for screening?

13 A Right.

14 Q Is that what you gave him at that time, screening

15 A Right.

16 Q Is that why you assumed that when he called you
17 and they came that Saturday in September on Labor Day
18 or the Friday night that they were coming for screening?

19 A Right.

20 Q You told us about what screening is in response
21 to a direct question from Mr. Wohl, and you told us it was
22 going for approximately \$1.50 or thereabouts a ton, right?

23 A Approximately.

24 Q Isn't that also based on the fact as to whether
25 there is a market for it or not?

1 lhb-7 Turco-cross

2 A No. I say that was a going price in '71.

3 Q Right now, on the premises of Hudson Cement,
4 is there screening?

5 A Yes, there is.

6 MR. WOHL: Objection. It is irrelevant what
7 there is right now. The question is 1971.

8 THE COURT: Overruled.

9 Q Can you approximate for me how much screening
10 there is right now at Hudson Cement?

11 A Well over 200,000 tons, probably.

12 Q Is that because there is currently no market
13 for it?

14 MR. WOHL: Objection.

15 THE COURT: Sustained.

16 MR. NEWMAN: Would your Honor take it as a
17 predicate for future questions to be asked?

18 THE COURT: I will allow Mr. Newman to ask
19 these questions if he can connect it to the facts related
20 to this case. If he can't, you will have to disregard
21 it.

22 Q Is that because there is not a current market
23 for it?

24 A Well, there is no market, plus we haven't
25 operated for a year.

1 lbh-8

Turco-cross

2 Q When you say in 1971 it had a value of \$1.50 a
3 ton, sir, was there a market for it in 1971, in September?

4 A Yes, we were shipping it by boat -- barge,
5 sir. I am sorry. Barge.

6 Q Where were you shipping it?

7 A New York City.

8 Q This screening, this is very fine material that
9 is used for roads?

10 A It is a good base material.

11 Q When Alecca first called you, what did he tell
12 you exactly?

13 A He didn't call me.

14 Q When he first came over to see you.

15 A He wanted some material for a road in the parking
16 lot.

17 Q did he tell you for who?

18 A No, he didn't.

19 Q In 1971 Mr. Wohl asked you about negotiations
20 between your company and the union for a contract?

21 A Right.

22 Q Let me understand something. There are
23 three unions working at your plant, right?

24 A Right.

25 Q Did the three of them negotiate together for

1 lbh-9

Turco-cross

2 a contract?

3 A Yes, we do.

4 Q Do the three of them get a contract that covers
5 all three of them together?

6 A Yes, after some bickering with each one, right.

7 Q So by and large it is a tripartite negotiation,
8 with three separate unions negotiating with your company?

9 A Yes.

10 Q And three separate unions having to agree to
11 the contract, is that right?

12 A Right.

13 Q When Mr. Clausi came down to see you that Satur-
14 day or called you, did he call you at first on Saturday?

15 A Friday I think was the first time he came.

16 Q On Friday did you have a discussion with Mr.
17 Clausi as to what it is he wanted?18 A No, because I was still under the impression
19 they wanted screening.

20 Q He didn't tell you anything different?

21 A No.

22 Q Am I correct, sir, that the first time you
23 became aware that anything other than screening was taken
24 was when you saw some tickets?
25

1 A Very possible, right.

2 Q Was that after two days of loads had been taken

3 out? In other words, did this happen the following

4 Tuesday?

5 A I would know it the next morning, Saturday morn-
6 ing.

7 Q Saturday morning you became aware of it?

8 A Yes.

9 Q This was the first time that you became aware
10 of it?

11 A Right.

12 Q Did you, in the vernacular, raise any hell with
13 Mr. Clausi or Mr. Alecca?

14 A I didn't see Mr. Alecca.

15 Q Did you call Mr. Clausi or Mr. Alecca to raise
16 any hell with them?

17 A No, I didn't, no.

18 Q If you would describe for me, this screening,
19 where was it in relation to where the 3/8 stone would be?

20 A We have a tunnel, and there is a conveyor belt
21 in this tunnel, and these piles are on top of this tunnel.
22 The screening -- now, it is a gigantic pile. A pile of
23 screenings and a pile of 3/8 would be just about next to
24 one another.
25

1hb-11

Turco-cross

468

1 Q They wouldn't be 1000 yards apart, would they?

2 A No.

3 Q Let me ask you something. In your experience
4 there, do the loaders ever mention these two materials
5 together when they are loading a truck?
6

7 MR. WOHL: Objection.

8 THE COURT: Screening --

9 MR. NEWMAN: Screening and 3/8 stone.

10 THE COURT: Overruled.

11 A Not unless they wanted to. They wouldn't.

12 Q In other words, unless they did it deliberately?

13 A Right.

14 Q You told us about some weight tickets. Did
15 Mr. Daley ever ask you to do anything with any weight
16 tickets?

17 A No, he did not.

18 Q Did he ever ask you to destroy any weight
19 tickets?

20 A No.

21 Q Did he ever ask you to give him any weight
22 tickets?

23 A No.

24 Q Or any representative of his?

25 A No.

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Turco-cross

Q You and I have met before, have we not?

A Yes.

Q In the office of the attorneys for Hudson Cement,
right?

A Right.

Q And you have met with Mr. Wohl before?

A Right.

Q And you have met with the prosecutor who
preceded him in this case, Mr. Jaffe or Mr. Kingham before,
have you not?

A Mr. Jaffe.

Q Mr. Wohl asked you about a call or some other
communication from Mr. Alecca in 1973, and I think you told
us you weren't sure whether it was a phone call or he came
to see you in person, right?

A Tony?

Q Tony.

A Anthony Alecca?

Q Yes.

A When he asked for the material?

Q No. In '73, now, when he asked for the weight
slips.

A Okay, I don't remember whether that was a call
or whether I seen him in person.

1 lhb-13

Turco-cross
redirect

2 Q You told him you would go find these slips?

3 A Yes. I tried to pacify him. I'd say "Yes,
4 you know, I will take a look for them."

5 Q Did he tell you in words or substance at
6 that time that he had had a dispute with Mr. Daley and he
7 needed it because it would help him against Mr. Daley?
8 Is that what he told you?

9 A He said he needed them for evidence -- not
10 evidence, he needed them for use against Mr. Daley. He
11 didn't say -- everybody knew he had had an argument. I
12 guess the talk of the town was that Tony Alecca --

13 MR. WOHL: Objection to what the talk of the
14 town was.

15 THE COURT: Yes.

16 MR. NEWMAN: I consent to it being stricken.

17 I have no further questions.

18 REDIRECT EXAMINATION

19 BY MR. WOHL:

20 Q When you said on your direct examination
21 and then again on cross-examination that you thought that
22 if you didn't give this stone to Mr. Alecca and Mr. Clausi
23 that they would be pests, did you mean that if you didn't
24 give it to them they would be just coming around asking
25 for it a lot or did you mean that you thought there were

1 lhb-14 Turco-redirect

2 some other potential problems as well?

3 A Both.

4 Q Tell us what you thought the other potential
5 problems were.

6 A Well, like I said, if there was a grievance or
7 something, they could prolong it and drive you crazy.
8 This is an operation where you have a lot of people working,
9 and if you want to fire somebody,,you would -- you know,
10 if somebody wasn't doing their job or somebody filed a
11 grievance, sometimes it could be a pain in the neck.

12 So we weren't looking for any problems, any
13 operating problems.

14 That is my opinion.

15 Q Any problems with the union, right?

16 A Right.

17 Q Did you think that your refusal to give up
18 the stone could have any effect on the contract negotia-
19 tions that were then in progress?

20 A No, I didn't really think of that.

21 Q Did you know about the contract negotiations?

22 A I think it was a contract year, yes.

23 Q Did you from time to time sit in on the contract
24 negotiations?

25 A Yes, I did.

lhb-15

Turco-redirect

472

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2 Q From time to time did you negotiate with
3 each union representative in meetings when the other
4 union representatives were not there from time to time?

5 A Sometimes.

6 Q The time that Mr. Alecca asked for the screen-
7 ings for the union parking lot, was there any payment
8 made for those screenings?

9 A I don't believe so.

10 Q Did there ever come a time when Mr. Alecca asked
11 for either asphalt or screenings for his own driveway?

12 A I remember him asking for material.

13 I don't remember just what it was, for his own
14 yard.

15 Q Do you remember whether he paid for the material
16 for his own driveway?

17 A No, I do not.

18 Q Hudson Cement Company is related to Colonial
19 Sand & Stone Company, is that right?

20 A Right.

21 THE COURT: This seems to me to be going
22 awfully far beyond the cross-examination, Mr. Wohl.

23 Can we finish up?

24 MR. WOHL: I am sorry, I thought it was
25 related.

1hb-16

Turco-redirect

THE COURT: Maybe in your mind.

Go ahead.

MR. WOHL: I have one more question.

Q Would you look at the back of Government Exhibit 17 and tell us if you recognize the stamp endorsement on the back of that check which is in evidence?

A Colonial Sand & Stone?

MR. NEWMAN: I don't know what that is supposed to me.

If he is seeking to show the witness the check to put it in evidence --

MR. WOHL: It is already in evidence.

THE COURT: What are you asking him?

MR. WOHL: Does he recognize the stamp endorsement.

A Colonial Sand & Stone. That is the company I work for, yes.

MR. WOHL: I have no further questions, your Honor.

MR. NEWMAN: I have nothing, Judge.

THE COURT: Thank you very much, Mr. Turco. You are excused.

(Witness excused.)

1 lnb-17

2 THE COURT: Ladies and gentlemen, we will
3 break for lunch.

4 Return at two o'clock.

5 (Luncheon recess.)
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2:00 P.M.

(Jury present.)

MR. WOHL: The Government calls Robert Greene,
your Honor.

ROBERT GREENE, called as a witness by the
Government, being first duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. WOHL:

Q Mr. Greene, you are testifying today under an
agreement of immunity, is that right?

A I understand that, sir.

Q And how are you employed?

A I am employed by Hudson Cement Company.

Q How long have you been employed by that company?

A Since its inception about 20 years ago.

Q What is your position now with Hudson Cement
Company?

A I am general manager.

Q What was your position in the fall and the
summer of '71?

A General manager.

Q And was your office located in Kingston, New
York?

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Greene-direct

A Yes, sir.

Q Is that where the complex of Hudson Cement Company is located and was located at that time?

A Yes, sir.

Q And what was your general area of duty in the summer and fall of '71?

A With relation to the Kingston complex, general manager in charge of the operations.

Q Were you Mr. Tom Turco's supervisor?

A Yes, sir.

THE COURT: Superior.

Q Superior?

A Yes, sir.

Q Now, at that time was Hudson Cement Company a subsidiary of Colonial Sand & Stone Company?

A Would you repeat that question?

Q At that time, that is, in the summer and fall of 1971, was Hudson Cement a subsidiary of Colonial Sand & Stone Company?

A Hudson Cement Company was a subsidiary or a division of Colonial Sand & Stone.

Q Now, could you describe for us what the business was that the Hudson Cement Division engaged in?

A The Hudson Cement Division engaged in the

gwb-3

Greene-direct

manufacture of Portland cement.

THE COURT: I think the Court and jury are fully informed about what Hudson's business is.

MR. WOHL: All right.

Q At that time did the Hudson Cement complex where you worked ship anything out of New York State?

A Yes, sir.

Q What was shipped out of New York State?

A Bulk cement was shipped out of New York State.

Q Was that done on a routine basis?

A According to the sales requirement or the market requirement.

THE COURT: Did you regularly ship outside the State?

THE WITNESS: Yes, sir.

Q And you also shipped stone from time to time, is that right?

A Yes, sir.

Q Where did you ship the stone?

A Practically all of it went to the metropolitan New York market.

Q Was that down the Hudson River?

A Yes, sir.

gwb-4

Greene-direct

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Q Did any of it go to New Jersey?

A A small amount of it would have gone to New Jersey.

Q How about Connecticut? Did you sell any of the stone to Connecticut?

A No, we did not.

Q In September of 1971, Hudson Cement had contracts with Local 445 of the Teamsters Union, is that right?

A Yes, sir.

Q And did you represent Local 445 -- withdrawn. Did you represent the company in those contract negotiations?

A Yes, sir.

Q I show you Government Exhibits 10, 11, 12 and 13 for identification and I ask you if you recognize what those documents are?

A Yes, sir, I recognize the four documents.

Q Are they contracts between Hudson Cement and affiliated companies and Local 445 of the Teamsters Union?

A Yes, they are.

Q Do they bear your signature?

A Exhibit 11 only has my initial. Number 13 has my signature. 12 has my signature. Number 10 has my signature.

1 gwb-5 Greene-direct

2 Q All right. And you recognize them to be true
3 copies of those contracts?

4 A At face value. I haven't read them as such.

5 THE COURT: Please don't.

6 MR. WOHL: The Government offers them at
7 this time, your Honor.

8 I have agreed with Mr. Newman that he may read
9 them later and make any objections --

10 MR. NEWMAN: Unless you want me to read them
11 now, Judge.

12 THE COURT: You can do that over the weekend.

13 MR. WOHL: May they be admitted subject to that
14 stipulation, your Honor?

15 THE COURT: Yes.

xxx 16 (Government Exhibits 10, 11, 12 and 13
17 were received in evidence.)

18 Q Now, was the wage rate -- withdrawn.

19 Did you also employ Teamsters of Local 445 at
20 the company at that time, in the summer and fall of '71?

21 A There are Teamsters mentioned in those con-
22 tracts.

23 Q Local 445 Teamsters, is that right?

24 A Yes.

25 Q Was your wage rate the same wage rate as normally

gwb-6 Greene-direct

used in the building and contruction trade in the area?

A No, sir.

Q How was it different ordinarily?

A Our wage rates up there were based on manufac-
turing plant rates, which would tie in more or less with
the cement industry with th e or four plants located in
the area.

Q They were lower? Your rates were lower than
building and construction?

A Lower than the construction rate.

Q Than the construction rate for Teamsters, right?

A Yes, sir.

Q Who was the bargaining agent representing the
union with your company in the summer and fall of '71?

A That would be Anthony Alecca, Jr.

Q Did you have union negotiations going on during
the summer and fall of '71?

A Yes, sir.

Q And was the contract entered in evidence dated
February 1972, a contract retroactive to the fall of '71?

A Yes, sir.

Q Did there come a time when someone told you in
the late summer or fall of 1971 something about a load of
material to be used by someone in Local 445?

Greene-direct

A Yes, sir.

Q And who did you have this conversation with?

A I had that conversation with Tom Turco, my
plant superintendent.

Q Do you remember when the conversation occurred?

A It would be some time in August, 1971.

Q And what did Mr. Turco say to you and what did you say to him?

A Mr. Turco said that Mr. Alecca had approached him for several loads of material and he was asking me whether it was all right to go ahead and let him have it.

I said I would think about the situation.

I did not go ahead with permission at that time.

Q Did there come a time when you had another conversation concerning this same project?

A Yes, sir.

Q And when was that?

A That would be probably a week or so later. And Mr. Turco again asked me about the material, and I said, "Go ahead, a couple of loads, let him have it."

Q Did you have any conversation with Mr. Turco as to what material it was that was going to be taken?

A I would say it was my understanding it was going to be screenings material.

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Greene-direct

Q And screenings is the fine dust-type material,
is that right?

A Yes. It is material that is one-quarter inch
minus down to dust.

Q And the next size up from screenings would be
3/8 inch stone; is that right?

A Yes, sir.

Q At that time was there a price for the 3/8 inch
stone?

A In 1971, off dock the price would be about
\$2.50.

Q When you say "off dock," that means if somebody
wanted to drive down to your dock and load it up and cart
it away themselves without your being responsible for the
transportation, is that correct?

A Yes, sir. We did not have that type of trans-
portation.

Q You shipped yours by barge mostly, is that it?

A Yes, sir.

Q Did you have an off dock price for screenings
a- that time?

A Yes, sir.

Q And what was that price?

A It would vary. It would probably average out

1 gwb-9

Greene-direct

2 \$1.50 per ton.

3 Q Have you recently looked at the company records
4 to refresh your recollection to see whether or not there
5 was a market for screening in the period around September
6 1971?

7 A Yes, sir.

8 Q And what is your recollection now on that
9 subject?

10 A As best I can put together with some old records
11 of production, we were shipping better than one boat per
12 day of screenings to the New York market.

13 Q So that means there was a market, is that
14 correct?

15 A Yes, sir.

16 Q Now, this time that you gave your permission to
17 Mr. Turco to have the material taken, do you recall what
18 day of the week that was?

19 A No, I do not.

20 Q Did there come a time when you had another
21 conversation -- I will withdraw that.

22 Did you see any of the trucks come to take
23 this material away from the plant?

24 A No, sir.

25 Q Did there come a time when you had another

gwb-10

Greene-direct

conversation with Mr. Turco concerning this project?

A Yes, sir.

Q And when was that?

A This would be after Labor Day, after some material had left the plant.

(continued on next page.)

End 1A PM

2/25

A-155
486

Daley

1B

- 1 1 gwsr Greene - direct
- 2 Q What did Mr. Turco say to you and what did
- 3 you say to him in that conversation?
- 4 A Tom informed me that the material had gone
- 5 out of the plant but that it was now 3/8 stone instead
- 6 of screenings that we both understood it to be and there
- 7 was much more than a couple of loads.
- 8 Q And did you say anything to him about that?
- 9 A I said "I will take care of that."
- 10 Q Therafter did you have a conversation with
- 11 somebody else?
- 12 A As soon as I found that out, I called Tony
- 13 Alecca on the phone and asked to meet him, which I did.
- 14 Q And did you have a conversation with him?
- 15 A I asked him -- I don't remember the exact
- 16 words, but to the effect of what is he doing, he asked
- 17 for a few loads, they have taken quite a few more than
- 18 that and now they are taking 3/8 stone, it is becoming
- 19 very embarrassing to me because what was a good will
- 20 gesture is now taken advantage of everybody.
- 21 Q And what did he say?
- 22 A He said there was a miscalculation on what
- 23 they needed, he needed a few more loads. And I told
- 24 him to take the few more loads and quit, that's all.
- 25 Q When you gave your permission for this

2 gwsr

Greene - direct

487

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2 project, what was the reason in your mind for giving
3 your permission for the project?

4 A This was nothing of first instance except
5 what turned out to be of great magnitude. From time
6 to time over a period of years, we have given the
7 screening material away for just cause projects: To
8 the churches, fire house, St. Mary's Hall, it was sort
9 of a community relation situation for the so-called
10 big company in the area.

11 It was my responsibility to handle those
12 community relations.

13 Q The question I asked you was, when you agreed
14 to give the material at Mr. Alecca's request that you
15 just described for us, what was the reason in your
16 mind then for agreeing to that?

17 THE COURT: Was that the first occasion or
18 the later occasion?

19 Q Let's first ask the first occasion.

20 When Mr. Turco came up to you and he said
21 they wanted the material, what was your reason for going
22 along with this?

23 A At the beginning I didn't go along, but
24 when I finally did it was because I could visualize
25 that there could be problems, minor problems, which would

3 gwsr

Greene - direct

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2 result in loss of time or inspection of equipment that
3 could be requested, which all affect the operating
4 efficiency of the plant.

5 Q What kinds of minor problems could you en-
6 vision if you denied this request?

7 A I thought I mentioned the inspection of
8 trucks. The driver can make a request for a safety
9 inspection of a truck at any time, which we have to
10 go through.

11 Q What requires you to go through that?

12 A While the trucks -- pardon?

13 Q What requires you to go through the safety
14 inspection whenever the driver makes a request?

15 A It is a common understanding with our
16 contracts that if there is anything unsafe the company
17 will check up on the meal.

18 Q That is your contract with the union?

19 A The union contracts, yes.

20 THE COURT: Are you saying, Mr. Greene --

21 THE WITNESS: Safety features.

22 THE COURT: Sometimes the expression is phrased
23 they are going to be throwing the book of rules at you.

24 THE WITNESS: You could say that, yes, sir.

25 Q At the new discussion you had concerning this

1 4 gwsr Greene - direct 489
2 venture with Mr. Alecca when he said "We need some
3 more loads in addition to the ones we already took,"
4 was your reason for agreeing to it at that time the
5 same or was it a different reason?

6 A My reason for agreeing to the last few loads
7 was out of embarrassment. I wanted to get the situation
8 finished with as soon as possible.

9 Q How many loads did Mr. Turco tell you that
10 Mr. Alecca wanted when he first talked to you about this?

11 A I believe Mr. Turco originally said that Mr.
12 Alecca wanted some fine material.

13 THE COURT: Without specifying the amount?

14 THE WITNESS: He did not specify the amount.

15 Q Do you recall for sure whether or not he
16 specified the amount or are you saying now you don't
17 recall or not he specified an amount?

18 A I am saying as I remember it he asked for some
19 material, not a specific amount. It could have been
20 like several truck loads or something like that.

21 Q How many truck loads?

22 A I would say several.

23 Q Did he give you any numbers at that time?

24 A I don't recall.

25 Q I ask you to look, Mr. Greene, at Exhibit 3557,

5 gwsr

Greene - direct

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1 at the bottom half of the page. I ask you to read it to
2 yourself and tell us whether it refreshes your recol-
3 lection as to what Mr. Turco told you concerning the
4 amount of material being requested by Mr. Alecca.
5

6 A You want me to answer?

7 Q Yes. Does it refresh your recollection?

8 A Yes.

9 Q Now, with your recollection refreshed, what
10 did Mr. Turco say, as far as you can recall, on the
11 question of the amount of material?

12 A The amount of material was three to six loads,
13 concerning to that statement.

14 Q Is that your recollection now?

15 A Well, I said several previously, so I am
16 in the same ballpark.

17 Q In any event, so far as you know, was Hudson
18 Cement ever paid for that material?

19 A Will you ask the question again?

20 Q To your knowledge, was Hudson Cement ever
21 paid for this material that went out of the plant as
22 you have described in your testimony?

23 A No, not to my knowledge.

24 Q So far as you know, did anyone ever offer
25 to pay for that material?

6 gwsr

Greene - direct

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A No, sir.

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Q Incidentally, was this 3/8 stone, so far as you know, dirty stone or clean stone?

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6

A I would have to say it was dirty stone from the location that existed.

7

8

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Q Does the Hudson Cement Company complex at its location there in Kingston also customarily have on its property any waste material?

10

11

A Yes, sir.

12

Q And what would the waste material be?

13

A Normally the waste material would be overburden located up in the quarry.

14

Q What is overburden?

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A Overburden would be that material which is left after you clear ground prior to drilling and blasting it; in other words, tree stumps, roots, leaves, clay, dirt. That is bulldozed into piles so that you have clean rock to drill and blast.

20

21

22

Q Did there come a time when you had a conversation with the owner -- one of the owners of the company concerning this particular course of events?

23

A Yes, sir.

24

Q And who was that?

25

A That would be Mr. Pope.

1 7 gwsr

Greene - Direct

2 Q And would it be fair to say that he chewed
3 you out as a result of your participation in this
4 project?

5 A That's a gross understatement.

6 Q What would you have to do to the dirty
7 stone in order to make it what is called clean stone
8 or washed stone?

9 A The dirty stone would be sitting in a pile
10 that would be recovered on a conveyor belt tunnel effect,
11 and just before it would be loaded into the scows it
12 would be washed as different slate had from loading
13 in trucks off the pile where there is no way to wash
14 that. In other words, it is cleaned as it is loaded
15 for the scows.

16 MR. WOHL: No further questions, your
17 Honor.

18 CROSS-EXAMINATION

19 BY MR. NEWMAN:

20 Q Good afternoon, Mr. Greene.

21 A Good afternoon.

22 Q We have met before, have we not, sir?

23 A Yes, sir.

24 Q In the office of the attorneys for Colonial
25 or Hudson Cement?

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A Yes.

Q Let me understand something, sir. Mr. Alecca negotiated the contracts that we are talking about that are in evidence here?

A Yes, sir.

Q And he negotiated on behalf of the union, sir?

A Yes, sir, he was the local business agent.

Q Do you know, sir, at the time he negotiated these contracts, was he also the president of the union?

A I believe he was.

Q Now, sir, how long prior to September, 1971, had you known Mr. Alecca?

A I have known Mr. Alecca since about 1958.

1 LHJw 1 Greene - direct

2 Q Sir, was that since the time that he
3 became an officer and a business agent of the union or
4 prior to that, if you know?

5 A I believe it was at the time that he was
6 a shop steward in the Kingston complex.

7 Q In addition to that, Mr. Alecca lived not
8 too far from the plant, is that right, sir?

9 A That's right.

10 Q As part of your operation, there was
11 blasting from time to time, is that right, sir?

12 A Of necessity, yes.

13 Q What do they call that, a shot, or something,
14 and you break down a mountain or a wall of big rock?

15 A On a pre-planned schedule, you had to blast
16 stone which was used to make the cement.

17 Q From time to time would Mr. Alecca come
18 in to your plant with some rock or bits of rock, complaining
19 that his house and property were being damaged by it?

20 A I never had knowledge of Mr. Alecca's
21 house being hit by rock from our plant.

22 Q Did he ever come in from time to time
23 and claim that his property was being damaged, that his
24 cistern was being cracked, that he was in any way being
25 devastated by these shots that your company was --

1 lhjw 2 Greene - cross

2 A Yes.

3 Q Sir, would he ask for damages or any kind
4 of reparations as a result of this?

5 A As far as the blasting situation, drilling
6 and blasting, we used a subcontractor, so I would have
7 no knowledge of that.

8 But as far as the cistern that you mentioned,
9 I am aware that he was complaining of damages to his
10 cistern.

11 Q Sir, in the course of these complaints,
12 did they go on from time to time and become as far as you
13 were concerned annoying?

14 A Would you repeat the question?

15 Q Did these complaints go on from time to
16 time every time you had a blast and would they get annoying
17 to you or to the company?

18 A Yes, they were annoying.

19 Q As a matter of fact, sir, did these
20 constant complaints play any role in your giving any
21 kind of material to Mr. Alecca from time to time, so-
22 called, to get him off your back?

23 A There may have been one or two instances
24 of that nature.

25 Q There came a time, did there not, prior to

1 lhjw 3 Greene - cross

2 1971, when Mr. Alecca sought some material from you,
3 is that right?

4 When I say "from you," I mean from Hudson
5 Cement, from screening material?

6 A Yes.

7 Q Did he tell you, sir, in words or substance
8 that this material was being sought for the union parking
9 lot or the union hall?

10 A Yes, sir.

11 Q Did you consent to giving him screening
12 on that occasion?

13 A Yes, sir.

14 Q Do you remember how many loads of screening
15 were involved, sir, as you sit here now?

16 A No, sir.

17 Q Sir, would you please take a look --disregard
18 the writing on the side -- would you please take a look
19 at Government's Exhibit 3557 furnished to me by the
20 governemnt and, looking at this page, sir, SA6, this
21 material, looking at page SA6.

22 (Pause)

23 Does that refresh your recollection in
24 any way, sir?

25 A Yes, sir.

1 lhjw 4 Greene - cross 497

2 Q Approximately how many loads of material

3 did Mr. Alecca ask for at that time, sir?

4 A Several.

5 Q Sir, you released those and gave it to him,

6 sir?

7 A Yes, sir.

8 Q Do you know this gentleman sitting here,

9 Mr. Theodore Daley?

10 A I have met Mr. Daley.

11 Q On how many occasions have you met him,

12 sir?

13 A I would say probably twice.

14 Q On any of those occasions, sir, has he

15 ever asked you for any material?

16 A No, sir.

17 Q On other than the occasions that you

18 met him, has he ever called you and asked you for

19 any material?

20 A No, sir.

21 Q These screenings, are there times when the

22 yard and your company considers them waste material?

23 A Hardly, sir.

24 Q Have you ever told anybody, sir, that there

25 are times that the yard considers them waste material?

1 lhjw 5

Greene - cross

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2 A It's possible.

3 Q As you sit here now, sir, do you have an
4 independent recollection of ever having told anybody that
5 there are times when the yard considers the screening
6 material as waste material?

7 A There would be times when the market does
8 not have any demand for screenings, such as now. I have
9 a quarter of a million tons sitting there for two years
10 now. We hope it will be salable in the future, but right
11 now it is the same as a waste product. But it has a
12 value.

13 Q Do you recall appearing before a grand
14 jury in December of 1973, sir?

15 A Yes.

16 Q Do you recall being asked questions at that
17 time, sir?

18 A Yes, sir.

19 Q Do you recall being asked questions
20 concerning the materials that were requested by Mr. Alecca
21 and what you considered them to be?

22 A Yes, sir. I don't remember what the
23 answers were, though.

24 Q Do you remember whether you ever said in
25 relation to the materials that were requested of you by

lhjw 6

Greene - cross

Mr. Alecca that it would be a screening material which part of the time the yards considered as waste material?

MR. WOHL: Objection, your Honor. I think the proper way for counsel to do this is to read the question and answer.

MR. NEWMAN: I thought I had to lay the foundation.

THE COURT: I am satisfied that you did.

A Would you repeat the question, please?

(Record read)

A It's possible.

MR. NEWMAN: May I approach him, your Honor, to show him something?

THE COURT: Right.

Q Would you look again at Exhibit 3557, looking at page SA7, and I tell you I made the brackets that are there, they didn't exist originally, and read that question and answer to yourself, sir, and see if that refreshes your recollection as to your having given that answer.

(Pause)

Q Does it refresh your recollection, sir?

A It refreshes my recollection, but it raises other questions.

1 lhjw 7 Greene - cross

2 Q In any event, were you asked before that
3 grand jury, "What kind of material was that that he asked
4 for?

5 "A It would be a screenings material which
6 part of the times the yards considered as waste material."

7 Were you asked that question, sir, and did
8 you give that answer?

9 A The word "yards" is foreign to my vocabulary.

10 Q Other than that, sir?

11 A I couldn't have answered the question that
12 way.

13 Q So you find fault with the word "yards"?

14 A Yes.

15 Q Do you find fault with any other part of
16 the question or answer, sir, that you don't recall it
17 being asked of you and your answer being given?

18 A That is a possible answer.

19 Q Am I correct that these conversations con-
20 cerning the screening, sir, all took place between yourself,
21 Mr. Alecca and/or yourself and Mr. Turco, is that right,
22 sir?

23 A Are you speaking of a particular instance?

24 Q In that instance in September of 1971, sir.

25 A My conversations took place with Mr. Turco

lhjw 8 Greene - cross

and with the one exception with Mr. Alecca after we found out there was 3/8 stone involved.

Q In other words, the bulk of your conversations were with Mr. Turco?

A Yes

Q Then when you found out it was 3/8 stone, with Mr. Alecca?

A Yes.

Q Were you under the impression when Mr. Alecca asked for this stone that this stone was for him, for Mr. Alecca?

A I did not know who it was for.

Q On prior occasions when Mr. Alecca would ask for materials, would you know who it was for?

A Sometimes I would, sometimes I would not.

Q When he came and asked you earlier for some materials for a parking lot, did he tell you that was specifically for the union?

A I don't think he asked me originally for the material. Later on he asked.

Q You told us or you told Mr. Wohl in response to a question by him as to whether Mr. Pope chewed you out, that it was a gross understatement. I think that's what you said, sir.

1 lhjw 9

Greene - cross

2 A Yes, sir.

3 Q What was Mr. Pope's office at that time
4 in the company, in either Colonial or in Hudson?5 A Mr. Pope was president of Colonial Sand
6 and Stone Company.7 Q Which was the parent company of the
8 division Hudson Cemen

9 A This is in 1973, we are talking about?

10 Q No. I am talking about in 1971. What
11 was his status?12 A Mr. Pope would still be president of the
13 company.14 Q Let me understand something. In 1971 Mr.
15 Pope was president, is that right, of Colonial Sand?

16 A Yes, sir.

17 Q Do I Understand by your answer, sir, that
18 in 1971 Mr. Pope was unaware of what materials were
19 given out in September of 1971, is that a fair statement?

20 A That is true, sir.

21 Q And that he became aware of it in 1973?

22 A Yes, sir.

23 Q And that's the time when you put it -- well,
24 I put it now, that he hit the roof?

25 A True.

1 lhjw 10

Greene - cross

2 Q So in 1971 when this material was given
3 out, it wasn't given out with the permission of the
4 president of the company, Mr. Pope, is that right, sir?

5 A No, it was my responsibility at that time
6 to take care of those community problems, which I thought
7 this started out as.

8 Q Mr. Wohl asked you if you looked through
9 some records to refresh your recollection as to whether
10 this material was marketable in 1971, is that right, sir?

11 A I didn't understand the question that way.

12 Q Did you ever tell anybody that that material
13 was nto marketable at the time?

14 A I don't believe so.

15 Q Pardon me, sir?

16 A I don't believe so.

17 THE COURT: Could you keep your voice a
18 little higher so the jurors can hear you.

19 Q Before this very same grand jury, sir,
20 do you recall being asked this question, sir, and making
21 this answer, and I am reading from page GH6 of Exhibit
22 3557, furnished to me by the government:

23 "Q Would you tell us, Mr. Greene, during
24 the time that you had the discussion with Mr. Alecca,
25 this would be in the week after Labor Day, during the

lhjw 11 Greene - cross/redirect

period of time after Anthony Pope had visited the plant,
what was your concern that you called him about?

"A My concern was due to the fact that we had
originally talked about three to six loads, approximately,
and that from the reports I was getting it was quite a
bit more, how much I don't know, but quite a bit more
than three to six. Also my concern was with the fact
that they were ending up with this dirty 3/8 stone,
which is a marketable product, compared to the screenings
which I thought they were taking originally which were
not marketable at the time."

Sir, do you recall that question and that
answer?

A If that's what it says, that's my answer.

MR. NEWMAN: Thank you very much, sir.

REDIRECT EXAMINATION

BY MR. WOHL:

Q At the time you testified in the grand
jury, Mr. Greene, had you had an opportunity to review
your records to see whether or not you were selling any
screenings during the summer and fall of 1971?

A I did not review any records prior to that.

Q When did you review your records on this point?

A Just very recently.

1
2 Q During this transaction, did you become aware
3 of the fact -- I am talking now about the shipping of
4 the stone at Mr. Alecca's request, did you become aware
5 of the fact that it was for Mr. Daley?

6 MR. NEWMAN: Objection, Judge, as not proper
7 redirect. I didn't go into that at all.

8 MR. WOHL: He did go into it, your Honor.

9 THE COURT: I think it is permissible, Mr.
10 Newman.

11 THE WITNESS: Would you repeat the question,
12 please?

13 Q During the course of these transactions relating
14 to the stone that you have testified about, did you become
15 aware of the fact that it was for Mr. Daley, the stone?

16 A At the beginning, I didn't know about it. But
17 before the shipments were finished, I was aware that it
18 was. I was told that it was going to what amounted to
19 Mr. Daley's place.

20 Q Who told you that?

21 A Tom Turco, my superintendent.

22 Q When did he tell you that?

23 A The Tuesday morning that he said they were taking
24 more loads than they requested and they had changed to
25 3/8 stone.

1 lbh-2

Greene-redirect

2 Q At the same time he told you it was going to
3 Mr.Daley's place?

4 A And he said he was also made aware of the
5 fact that it was going to Mr.Daley's place.

6 Q So you knew that before you spoke to Mr.
7 Alecca on this matter, is that it?

8 A Yes.

9 Q What situations had these been in which you
10 had met Mr.Daley, I believe as you said, twice, when Mr.
11 Newman asked you?

12 A They would probably be two 5-minute sessions in
13 which I had questions of -- regarding contract negotiations.
14 Probably one of them was after this '71 date and one
15 would be prior.

16 Q Where did these meetings occur?

17 A I can remember one of them occurring at a
18 Howard Johnson's, which was a restaurant effect. There
19 were other people assembled, and Mr.Daley happened to be
20 there, and I took care of my particular question which
21 had to do with, as I remember, something on welfare fund,
22 that would be part of the contract.

23 Q These contracts that you negotiated with the
24 union, were they signed by Mr.Alecca at all?

25 A I think in the beginning some of the contracts

1 lbh-3

Greene-redirect

2 were signed "Mr.Daley" but Mr.Alecca would put his initials
3 next to it. Later there were contracts that I would sign
4 and Mr.Alecca would take to the union office for Mr.Daley's
5 signature, and then I would be given a copy of such.

6 Q What year was this that you gave the screenings
7 to the union for the union parking lot?

8 A I don't remember, but it was prior to this other
9 incident that we were talking about.

10 Q How much screenings did you give at that time,
11 by the way?

12 A It was just brought out. Several loads.

13 Q Is it your normal practice there to give our
14 screenings to any union that comes along asking to build
15 a parking lot, even if they don't work for your company?

16 A No.

17 THE COURT: Does he have a normal practice of
18 doing it? Have you ever been even asked to do it by
19 another union?

20 THE WITNESS: No, sir.

21 Q At the time that you gave these screenings for
22 the parking lot, what was the reason for your doing it?

23 A I would say it was just under the general
24 heading of the community relations there.

25 Q Would you say it would be a general heading of

1hb-4

Greene-redirect

508

community relations or union relations?

A I don't think it was under the heading of union relations.

Q Where was this parking lot located?

A As I found out later, it was some place in the vicinity of Newburgh.

THE COURT: In the vicinity of what?

THE WITNESS: Newburgh.

Q At the time you were asked for the screenings to help pave the union parking lot, did you have any thoughts as to what would happen if you had said to whoever asked you, "No, I don't want to give any screenings for the union parking lot"?

MR. NEWMAN: Objection.

THE COURT: I think that is pretty remote, Mr. Wohl.

MR. WOHL: Nothing further.

MR. NEWMAN: Your Honor, may I please ask one question?

THE COURT: I will always allow a lawyer to ask one question, but I have never yet found him to stick to it.

MR. NEWMAN: Be prepared for a miracle.

1 lbh-5

Greene-recross

2 RE CROSS-EXAMINATION

3 BY MR. NEWMAN:

4 Q Mr. Greene, I have to be careful, I only have
5 one question, Mr. Greene, on the day that Mr. Turco told
6 you that he had heard the material is being delivered to
7 Mr. Daley, that was already after two loads had gone out
8 of the Hudson Cement plant, right?

9 A Yes, sir.

10 MR. NEWMAN: I have no further questions, your
11 Honor.

12 THE COURT: Congratulations. Thank you very
13 much, Mr. Greene. You are excused.

14 (Witness excused.)

15 (At the side bar.)

16 MR. HANDAL: Your Honor, the Government would
17 like to call a witness for whom Mr. Newman hasn't had
18 time to read the 3500 material, and we would like to work
19 something out with the luncheon break so he could either
20 read it now or after the direct.

21 THE COURT: How voluminous is it?

22 MR. NEWMAN: If I can get like seven minutes
23 after his direct, we can take the afternoon break at that
24 time. I don't want to screw your schedule up, because I
25 know it is an early day for you.

1hb-7

Naccarato-direct

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Q What union is that?

A Local 445.

Q Of what?

A Teamsters.

Q When did you become a member of Local 445?

A April, I think, 1960.

Q In September of 1971, by whom were you employed?

A Lizza Construction Company on Long Island.

Q Where were you employed by Lizza?

A Route 84, Newburgh.

Q What were you doing for Lizza?

A I was a shop steward.

Q Did there come a time in late summer or early fall of 1971 that you had a conversation concerning an extra haul after work?

A Yes, sir.

Q With whom did you have this conversation?

A Chet Davis.

Q Who is Chet Davis?

A At the time he was a business agent and vice-president of the Local.

Q As business agent and vice-president of the local, what did Mr. Davis do?

A His actual duties?

lhbn-10

Naccarato-direct

MR. HANDAL: Your Honor, regarding this conversation with Mr. Davis, he is in the category that we were referring to yesterday.

THE COURT: I forget what category that is, to be perfectly frank. He is not in the category at least of a co-conspirator, and it seems to me that you are able to put before the jury and the Court what you need to get -- you get a call from Mr. Davis and you do these things, we have enough sense to realize that Mr. Davis wasn't talking about the weather.

Let's go along.

MR. HANDAL: But he is in the category of a co-conspirator.

THE COURT: Where is that indicated?

MR. HANDAL: It is in a letter to --

THE COURT: I can hardly know about the letter.

(Pause.)

THE COURT: Okay. I don't carry those things around in my head.

Q Would you tell us in substance what Mr. Davis told you and what you said to him?

A He asked me if I knew where I could get a low-bed, he had a little dozer to pick up in Poughkeepsie and bring up to Windham to Ted Daley's house up on the hill.

1 lhb-11

Naccarato-direct

2 I said yes, I could get one, so I went to Mike
3 Maone, I picked up a little bed, went to Poughkeepsie,
4 picked up the little dozer in a housing project, -- I don't
5 know the name of it -- but I took the low-bed and the
6 machine right up to Kingston. I parked it overnight in
7 Kingston.

8 Q Did Mr. Davis tell you where to get these mater-
9 ials?

10 A Yes, sir. It wasn't materials. It was a
11 bulldozer.

12 Q Did he tell you where to get the bulldozer?

13 A Yes, sir.

14 Q Where did he tell you?

15 A On Route 9 by Howard Johnson's. There
16 was a housing project there. I don't know the name of
17 it, though.

18 Q Did he tell you whose bulldozer it was?

19 A Not at the time, no.

20 Q Then what happened?

21 A I parked it up in Kingston because it was
22 getting late, and I called Tony Alecca and asked him where
23 the place was. He said he would show me the next morning,
24 which was a Saturday, I knew that much because it was on
25 a weekend, and then I met him in Kingston, on the outside

gwb-4

Naccarato-direct

520

1 on. There was a back hoe sitting in the yard.

2 Q Besides this back hoe, was there any other
3 equipment there?

4 A I think there was a big bulldozer there. I
5 can't even remember for sure.

6 Q Did there come a time that you had another
7 conversation regarding this same small bulldozer?

8 A Yes. One afternoon I got a call to call Ray
9 Ebert. He said, "They are done with the machine. Bring
10 it back to Dave Alexander's garage". That is who it
11 belonged to.

12 Q Who is Ray Ebert?

13 A Business agent of Local 445. I think he was
14 relaying a message for Chet Davis. I don't think he
15 knew that much about it.

16 THE COURT: Don't tell us that. You got the
17 word from Ebert, is that right?

18 THE WITNESS: Yes, sir.

19 Q When did this conversation take place in
20 relation to the time you picked up the bulldozer?

21 A About two weeks after.

22 Q Was this in person or by telephone?

23 A By telephone.

24 Q What did you do after you spoke with Mr. Ebert?

gwb-8

Naccarato-direct

524

1
2 A Well, not in the past five or six years, but I
3 used to.

4 Q Did he ever come out to your place to help you
5 with things?

6 A No, sir. I ain't got that kind of place.

7 Q Did you ever do any jobs, Government jobs,
8 as you referred to them, for anyone else?

9 A Yes, sir.

10 Q For whom?

11 A Mr. Alecca, a lot of people.

12 Q Would you tell us -- well, first, this job with
13 Alecca, what did that entail?

14 A I was building a home at the time and had to
15 get rid of a lot of fill. He said he could use it. So
16 he furnished the trucks and I gave him all the fill I had.
17

18 (continued on next page.)

19 End 3A PM
20
21
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1 2 gwsr Naccarato - direct

2 Q On how many occasions would you do this?

3 A I don't know. Through the years?

4 Q Yes.

5 A It might be a hundred times.

6 Q Was there ever anyone else that you --

7 withdrawn.

8 To your knowledge, how did the union hiring
9 hall operate?

10 A Well, usually you go down and sign in and
11 your business agent would give you the work. Sometimes
12 it didn't work like that.

13 Q How did it work other times?

14 A It is all according. If there was a lot
15 of work you went from job to job. If there wasn't,
16 there was a lag between and you had to wait for your
17 business agent to get in touch with you. Sometimes
18 he didn't.

19 Q To your knowledge, who ran the union and the
20 union hall?

21 A Ted Daley.

22 Q At the time you were told by Mr. Davis and
23 Mr. Ebert to make these trips to Mr. Daley's summer
24 camp, what were your reasons for going?

25 A More or less for friendship and to keep the

1 5 lhr Stewart - direct

2 THE WITNESS: Yes, sir.

3 A [Continuing] And he asked me if I would make
4 a trip up to Windham, and he stated that if I wanted a
5 job, I had better go. So I told him I would take a trip
6 up the next day.

7 Q Did he tell you where in Windham you were
8 going?

9 A No. He just said Windham. That was all.

10 Q Did he say anything else to you?

11 A No.

12 Q What did you do after this conversation?

13 A I had attended an engagement, and I had went
14 out.

15 Q What did you do the next day when you were
16 supposed to go?

17 A The next morning I received a phone call from
18 Mr. Kozlowski, and I also received a phone call from
19 Mr. Clausi. We were supposed to leave at seven in the
20 morning the next day to go to Windham, and around half
21 past six in the morning I received a call from Kozlowski
22 telling me that it was postponed to around twelve o'clock,
23 and I also received a phone call from Mr. Clausi stating
24 the same facts.

25 THE COURT: So you rolled over and went to sleep?

6 lhr

Stewart - direct

538

THE WITNESS: I ate breakfast. No, then I hung around until about 11:30, and then I went down to the garage and picked up the truck.

Q To what garage?

A Kozlowski's garage.

Q When you picked up the truck, where did you go?

A Then we proceeded down to -- I call them Colonia Sand & Gravel, but it is Hudson Cement. Down there --

Q What type of truck was this?

A It was a ten-wheeler.

Q Do you know what make was?

A White, which I was driving.

Q Now, tell us what happened at Hudson Cement.

A At Hudson Cement we weighed up, and then they took us down and we loaded up with material. Then we came back and we weighed up again, and then we formed a convoy sort of type of arrangement, where we all lined up on North Street in East Kingston, and there we proceeded on up to Windham.

Q How many other drivers were there in this convoy?

A I would say there was around ten, maybe more.

Q Did you know where you were going in Windham?

1 7 lhr Stewart - direct

2 A Not exactly. At some time or other before we
3 had left we found out that it was going to Mr. Daley's
4 place up in Windham, but I still didn't know exactly
5 where in Windham it was.

6 Q Whose trucks were being used in this convoy?

7 A The only ones that I can be actually sure of
8 is Kozlowski's, Mike Spada's and one truck of Fabiano's.

9 Q While you were at Hudson Cement, did you have
10 any conversations that you remember?

11 A Well, the fellows did a little talking, yes.
12 They didn't think much of the idea of --

13 MR. NEWMAN: Objection, Judge.

14 THE COURT: Sustained.

15 Q At Hudson Cement, where were you loaded?

16 A Down on the dock.

17 Q Am I correct that you weighed in, you said,
18 after --

19 A We weighed in after we got loaded, yes.

20 Q Did you receive a ticket when you weighed in?

21 A No. They retained the tickets.

22 Q Do you know what type of material it was
23 that you loaded with?

24 A It looked like a fine stone. Other than that,
25 that is all I can say.

1 10 lhr Stewart - direct 542

2 Q Do you know how many gallons of gas you used

3 on that trip?

4 A No, I have no way of knowing, no.

5 Q Do you know who paid for the gas?

6 A Mr. Kozlowski.

7 Q How do you know that?

8 A Because he -- he always paid for it. We

9 didn't pay for anything.

10 THE COURT: It was his truck?

11 THE WITNESS: It was his trucks, yes. He

12 filled them up before we got there.

13 Q In 1971, how often did you see Mr. Daley?

14 A I would say I only seen him once in '71.

15 Q Where was that?

16 A Up in Windham.

17 THE COURT: That day?

18 THE WITNESS: That day that we delivered the

19 stone.

20 Q Did Mr. Daley ever help you out at your place?

21 A No.

22 Q Did you ever do a job for anyone else without

23 getting paid for it?

24 A I delivered three or four loads to Mr. Alecca's

25 house.

11 lhr

Stewart - direct

543

Q On what occasion was that?

A Right now I couldn't recall, but I know we delivered sand there at one time. What year, what date, I don't really couldn't say.

Q Where did this sand come from?

A It wasn't actually sand. It was fill from Mr. Naccarato's.

Q How many loads did you take?

A I took four loads.

Q What happened after you dumped the loads?

A Then I returned back to the barn and I went home.

Q How well do you know Mr. Alecca?

A I knew him since he was around seven, eight years old.

Q Would you say that he is a close personal friend?

A Yes.

Q To your knowledge, Mr. Stewart, who controls the union and the union hall?

A Mr. Daley.

Q At the time you were told by Mr. Clausi to make this trip, what was your reason for going?

A Well, as I said before, Mr. Clausi said that

1 12 lhr Stewart - direct

544

2 if I wanted a job, I had better make the trip. So I
3 figured I had better go.

4 Q What did you think would happen if you refused?

5 MR. NEWMAN: Objection, if your Honor please.

6 THE COURT: Overruled.

7 A There would have been a possibility that I
8 may not have gained employment through the union.

9 Q When was the first time that you found out
10 that you were going to Mr. Daley's place?

11 A It was on the Saturday morning when Mr. Clausi
12 called. That's when I was informed that it was going
13 to Ted Daley's.

14 Q Did Mr. Clausi tell you in that conversation?

15 A Yes.

16 MR. HANDAL: Your Honor, may we approach the
17 bench?

18 [At the side bar:]

19 MR. HANDAL: Your Honor, it is about the
20 admissibility of the conversations among the men at the
21 garage.

22 THE COURT: My concern is that he attribute
23 them to specific people. I think just general conversa-
24 tion, I think -- it is admissible under the victim theory
25 for him to say that so and so said he didn't want to go

1 16 lhr

Stewart - cross

2 Q He actually threatened you on the telephone?

3 A I would not actually say it was a threat.

4 It was just a matter of the way he presented it. The

5 words he used were, "If you want the job, if you want

6 a job, you better make the load." I actually can't

7 consider it a threat in a sense, knowing Mr. Clausi.

8 Q Isn't it that you don't take Mr. Clausi

9 seriously when he says words like "If you want a job,

10 you better show up tomorrow," is that the idea?

11 A Yes.

12 Q How long have you known Mr. Clausi?

13 A I have known Mr. Clausi for about thirty years.

14 Q How long have you known Mr. Alecca?

15 A Ever since he was around -- well, since he

16 was seven years old.

17 Q You don't want to venture a guess for us as

18 to how long that is?

19 A No.

20 Q In any event, a good friend of Mr. Alecca's,

21 sir?

22 A I wouldn't say -- I would say I am a friend,

23 yes. Not a very close friend.

24 Q I think you told us you did some hauling of

25 material to Alecca's house?

1S lhr

Stewart - cross

550

answer those questions for him?

A The name is McNally?

Q McNally.

A I told Mr. McNally that --

Q Just were you interviewed. I haven't put a question to you.

A Yes.

Q Where was it that you were interviewed, sir, do you remember?

A On the job site where I work.

Q Did he identify himself to you as an investigator?

A Yes.

Q Did he ask you, sir, questions about Mr. Clausi and Mr. Clausi's phone calls to you?

A No.

Q Did you tell Mr. McNally in words or substance, sir, that Clausi told you that you would be hauling screening?

A No.

Q You appeared before a Grand Jury in November of 1973, do you remember that, sir?

A Yes.

Q Do you remember appearing there with an

21 lhr

Stewart - redirect

553

other than through the union?

A Through our representative, Mr. Markle, or Mr. Alecca at that time.

Q Was there a way that you would get jobs other than that, union jobs?

A If you went out and got them yourself.

MR. HANDAL: That is all, your Honor.

MR. NEWMAN: I have nothing further, your Honor.

THE COURT: Thank you.

[Witness excused.]

THE COURT: Ladies and gentlemen, you are excused also, as you know, until Monday morning, ten o'clock. I hope you have a nice weekend and I hope you remember not to talk about this case. You have other wonderful things in the world to talk about.

[Adjourned to Monday, February 28, 1977
at ten a.m.]

1 8 gwsr Qualtere - direct 567

2 where did you work?

3 A Callanan.

4 Q And what job were you working on for Callanan?

5 A It was 213, Rifton job.

6 Q Pardon me. I didn't understand that .

7 A 213 in Rifton, New York.

8 Q And what were you doing on that job?

9 A I was a shop steward.

10 Q Did there come a time in September of '71
11 that you were asked to make an extra haul of work?

12 A Yes.

13 Q And who told you to do this?

14 A Thomas Clausi.

15 Q Was this conversation in person or by
16 telephone?

17 A In person.

18 Q And where were you at the time?

19 A I was somewhere on the highway, I guess.

20 Q In substance, what did Mr. Clausi say to
21 you and what did you say to him?

22 A He told me we had to bring some waste
23 material up to Ted Daley's camp up in Windham.

24 Q Did he tell you anything else?

25 A Yes. He told me I had to go back up in the

9 gwsr Qualtere - direct

morning, too.

Q Regarding this first time you spoke with Mr. Clausi, did he tell you where to go?

A He just said we had to go up to Ted Daley's camp in Windham.

Q Did he tell you what you were going to bring up there?

A He said it was waste.

Q After this conversation with Mr. Clausi, what did you do?

A I think we went down to Spada's and picked up a truck.

Q What is Spada's?

A Mr. Spada's truck. He owns trucks.

Q You went to his what to pick up the truck?

A His garage.

Q When you got to Mr. Spada's garage, what did you do after that?

A I picked up the truck, it was outside the garage ready, went to Hudson Cement, picked up the load of waste and then I followed other trucks up to Windham.

1 7 ewsr Qualtere - direct
2 than Mr. Daley's son at that time?

575

3 MR. NEWMAN: Objection, if your Honor
4 please.

5 THE COURT: If he knows the answer, the objection
6 is overruled.

7 A Yes, I think I did.

8 Q Did you ever complain about this to Mr.
9 Daley, Sr.?

10 A No, sir.

11 Q Why was that?

12 MR. NEWMAN: Objection.

13 THE COURT: Overruled.

14 A I don't think it would have done any good.

15 Q On the two occasions that you were told by
16 Mr. Clausi to make these trips to Mr. Daley's summer
17 camp in Windham, what were your reasons for going?

18 A He said you are working so you go or else
19 you don't work.

20 Q What did you think would happen if you had
21 refused to go?

22 A I don't think I would have been working.

23 MR. HANDAL: No more questions, your Honor.
24
25

gwb-6

Qualtere-cross

1
2 A About driving up Saturday morning, yes.

3 Q And when did you have that conversation with
4 Mr. Clausi about driving up on Saturday morning?

5 A On the way home.

6 Q Let me understand something. When you say
7 "on the way home," you are talking about Friday night when
8 you drove back down from Windham?

9 A Yes. He told me I had to go up Friday night
10 and Saturday morning.

11 Q So on Friday the first time Mr. Clausi spoke to
12 you he told you you had to go up Friday night and Saturday
13 morning, right?

14 A Yes.

15 Q By the way, Mr. Daley, you know him?

16 A Yes, sir.

17 Q Did he ever ask you to drive anything up to
18 Windham for you?

19 A No, sir.

20 Q Now, Mr. Clausi, when he asked you to drive
21 material up to Windham for him on Friday, what is the exact
22 language he used to you?

23 A He told me I was working, I had to go make the
24 trip.

25 Q And did he tell you what would happen to you if

1 Q Tell us what Mr. Clausi said to you and what
2 you said to him at that time?
3

4 A Mr. Clausi told me that he wanted me to take
5 a load of stone up to Mr. Daley's camp, and I told him that
6 I wouldn't do it.

7 Q What did he say?

8 A He said, "If you want to work you will do it."
9 I said, "I will work whether I do it or not."

10 Q Who were you employed by at that time?

11 A I was employed by Callanan Road Improvement
12 Company, but I was driving Mike Spada's truck and I used
13 to do repairs on Mike Spada's trucks.

14 Q Were you employed solely as a driver or did you
15 have another function at that time for Mr. Spada?

16 A For Mr. Spada, I was employed on a part time
17 basis as a mechanic.

18 Q Can you tell us what your belief was at the
19 time that you refused to go up to Windham?

20 A How do you mean that?

21 Q What your state of mind was at the time you
22 refused to go up to Windham?

23 A I still don't understand. How do you mean?
24 State of mind about what, sir?

25 Q As to whether or not there was any danger to

gwb-11

Eaton-direct

0-199
658

your job if you refused to go.

A No, sir, I had no fear at all.

Q Can you tell us why that was?

A Because, like I stated before, I am a mechanic and I did have some work to do on the trucks and the man wouldn't fire me for not doing that.

Q Tell us whether you thought you were in the same position as the other drivers or in a different position?

A I felt an immune position.

Q Why is that?

A Because I am a truck mechanic, sir.

Q Indeed, did you do anything in connection with this stone hauling operation?

A I took one truck down and got it loaded and brought it back to the garage. What happened from there I don't know.

THE COURT: Friday night?

THE WITNESS: Yes, sir.

Q And do you recall what you got it loaded with?

A I do not -- it was a load, but I don't recollect what kind or even what kind of stone it was. I don't remember now.

Q What did you do with the truck after it was loaded?

1 9 gwsr

Eaton - cross

2 Q And when you were working for Kozlowsky were
3 you also driving a truck?

4 A Yes.

5 Q When you were working for Spada you were driving
6 a truck?

7 A Yes.

8 Q At the other times when you weren't driving or
9 they had a problem with a truck you would repair it?

10 A I would repair it.

11 Q However, you considered yourself and still to
12 this day are a member of 445?

13 A Yes, sir.

14 Q Has anybody refused you a job in 445 because
15 you didn't drive that truck to Windham?

16 A I don't know what you mean.

17 Q Did you ever go for employment with any
18 employr represented by 445 and were you ever refused
19 a job because you refused to drive a truck to Indham?

20 A No, sir.

21 MR. WOHL: Objection.

22 THE COURT: Overruled.

23 Q Now, sir, am I correct when you worked for
24 Spada and worked for Kozlowski you were paid the regular
25 union rate of a member of 445 plus whatever you got for

10 gwsr

Eaton - cross

fixing trucks?

A Yes.

Q Is that fair?

A Yes.

Q And then there came a time that you went to work for County Asphalt, is that what you told us, sir?

A Yes, sir.

Q County Asphalt, is that a job where you have to be a member of 445?

A 445 called me and gave me that job.

Q And when was this, sir?

A It was in January of '75.

Q And who was it, if you remember, from Local 445 who called you and gave you a job at County Asphalt?

A Mike Marco.

Q And Mike Marco was the business agent?

A Yes, sir.

Q And, sir, when you were working for County Asphalt were you driving a truck?

A Yes, sir.

Q Did you do any repairs for County Asphalt?

A No, sir.

Q So you were solely a teamster driver at County Asphalt?

1 ll gwsr

Eaton - cross

2 A Yes, sir.

3 Q How long did that job continue?

4 A I got laid off in October of that year.

5 Q Now, sir, let me understand something else.

6 Mr. Wohl had asked you when the last time was you
7 worked. Do you recall that, sir?

8 A October of '75, when I got laid off the County
9 Asphalt job.

10 Q Sir, if you know, what are construction
11 conditions in the Kingston area?

12 A Not very good.

13 Q And as a result of that you have been un-
14 employed since October, 1975?

15 A Yes, sir.

16 MR. NEWMAN: I have no further questions of
17 this gentleman.

18 REDIRECT EXAMINATION

19 BY MR. WOHL:

20 Q Mr. Eaton, do you know whether any members of
21 445 have been working in the Kingston area since you
22 were laid off at County Asphalt?

23 A I don't particularly understand what you
24 mean, what you are trying to get at.

25 Q If you know whether any other members of Local

14 gwsr

Brennan - direc t

674

1 Q What did Mr. Kozlowski say to you and what
2
3 did you say to him?

4 A He asked me if I would take a load of stone
5 to some place, and then he explained to me I had to go to
6 Hudson Cement, if I recall right, it was a long weekend
7 and we camp on the weekends and I said I would not go.

8 Q Was there anything further to that conversation
9 that you recall?

10 A No.

11 Q Did there come a time when someone else asked
12 you to haul a load of stone to Windham?

13 A The following week, Tommy Clausi asked me.
14 He didn't ask me. He told me.

15 Q Mr. Clausi?

16 A Right.

17 Q What did he say to you and what did you say
18 to him in that conversation?

19 A It was at the same place, the garage. It
20 was on a Thursday or Friday night. He says to me to
21 pick up a truck, go down to Hudson Cement, and before
22 he finished I told him right out, "I am a thick headed
23 Irishman. I am not donating my time to nobody and I am
24 not going."

25 Q Did he say anything in response to that?

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15 gwsr

Brennan - direct

675

A He said, "You want to work Monday you better get there."

I said, "If I am not working Monday, there are places to go to find out why I am not working,"

Q Do you know whether or not Mr. Clausi reported your refusal to go to anyone else?

A No, I don't.

end
Tk. 1b

Daley

l ewsr

Brennan - direct

676

2A

Q Did you work on Monday?

A Yes.

Q How long did you work on that job?

A I worked on the job quite a long time, but I think it was that Monday and Tuesday he changed us around and said instead of me running -- working by the hour, which means I stay on the job site and work underneath the backhoe which is nice, or I had to go on by the ton which means you put all you can on the truck and run as fast as you can run.

Q Are you saying that he switched you from being paid by the hour to being paid by the ton?

A Right. I would get my same money but the owner of the truck, he has to get paid by how much material he brings in which I didn't think was right because they brought --

MR. NEWMAN: Objection as to what he thought.

THE COURT: Don't tell us what you thought, just what you -- rather, what happened.

Q How long have you known Mr. Kozlowski?

A Twelve, fifteen years.

Q How long a period of time were you employed by him?

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A No.

Q Going back to September of 1971, was it Mr. Kozlowski who asked you for the first time to drive to Windham?

A Yes.

Q Did you refuse?

A Yes.

Q Did he tell you, Mr. Brennan, that he was asked to ask you by Mr. Clausi?

A I can't say exact words, but he said that Tommy said they all had to go, meaning all the men in the barn.

Q To your knowledge, sir, did he pass this information of your refusal back to Mr. Clausi?

A I don't know.

Q Did there come a time the following week, sir, that Mr. Clausi spoke to you personally?

A Yes.

Q This was again at the -- where was this?

A At Kozlowski's barn.

Q Again you refused?

A Yes.

Q Because you were going camping that weekend?

Did you tell that to Clausi?

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A I told Clausi I do not donate my time to nobody; any donations will be in my household.

Q Sir, by that you meant, I assume you meant, you want to get paid for driving a truck?

A No, I don't like working on the weekends.

Q I think you told us you have a ritual of going camping on weekends?

A Yes.

Q How soon after that, if you remember, did the Callanan job finish?

A I couldn't tell you that.

Q After you worked for Kozlowski, did you ever work for Mike Spada?

A No.

Q Did you ever work on a job involving somebody by the name of Perlstein?

A Yes.

Q How did you get that job, sir?

A Originally I was trying to think of that. I think it was Tony LaRocca, but I can't quote on it.

Q Do you know what year you were working there?

A The dates, not offhand.

Q Do you know the last time you worked for Kozlowski?

12 ewsr

Kozlowski - direct

687

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A No.

3

Q When did you cease to be an owner-operator?

4

A September of 1975.

5

Q When was the last time you had a Local 445

6

job?

7

A October, 1973.

8

Q While you were an owner-operator with Local

9

445, did you have a contract with the union?

10

A Yes, I did.

11

Q Did you employ other Local 445 members?

12

A Yes, sir, I did.

13

Q How many did you employ?

14

A It varied from one to six, seven.

15

Q Six or seven was the maximum number?

16

A Yes.

17

Q Can you tell us what the normal method was

18

by which your trucking concern obtained trucking jobs

19

as an owner-operator?

20

A 95 percent of the orders come through the union

21

hall.

22

Q How would they come to you, over the telephone?

23

A Yes, through a business agent.

24

Q How did you ordinarily get drivers to drive

25

these trucks?

13 ewsr

Kozlowski - direct

688

1 A I had my own drivers.

2 Q Were they also Local 445 members?

3 A Yes, they were.

4 Q Was there any rule while you were an owner-
5 operator concerning getting jobs in the Local 445 area in
6 a manner other than through the union?

7 A Yes, my clause calls for -- I could go out and
8 get my own jobs.

9 Q Were you able to do that?

10 A At certain times, yes.

11 Q This would be the five percent that was left
12 after the 95 percent, is that it?

13 A Yes.

14 Q During the time that you have been a member
15 of Local 445, who has been the head of Local 445?

16 A Theodore Daley.

17 Q How were your trucks -- withdrawn.

18 How were you employed in the summer of
19 1971?

20 A I worked for Callanan Road Improvement.

21 Q On the New York State Thruway?

22 A Yes, and Kingston Urban Renewal.

23 MR. NEWMAN: I am sorry, I didn't hear the
24 last answer.
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Q Were there any overtime rates on either the trucks or the drivers?

A Time and a half on the drivers, nothing on the trucks.

Q Who was the shop steward on that job?

A Tommy Clausi.

Q Did you have a conversation with Mr. Klausen in early September of 1971 concerning a haul to Windham?

A He called my garage.

Q On the telephone?

A Right.

Q Do you remember when this was?

A It was a Friday night before Labor Day, 1971.

Q Was that September 3, 1971?

A Yes.

Q What did he say to you and what did you say to him in that phone conversation?

A He told me bring some trucks, drivers to the Hudson Cement in Kingston.

Q Did he say what it was for?

A No.

Q Was there anything further to that conversation?

A No.

1 17 ewsr

Kozlowski - direct

692

2 Q What did you do then after you put down the
3 phone?

4 A I asked drivers if they want to go.

5 Q How many drivers were there present at that
6 time?

7 A It was my brother, Forte, Brennan, Grant,
8 Stewart, myself.

9 Q Do you recall how many agreed to go?

10 A My brother, Forte, Brennan refused, Stewart
11 refused and I didn't even ask Grant because he was
12 working on one of my trucks.

13 Q He was a mechanic?

14 A He was a driver, but he was helping out a
15 mechanic.

16 Q Did you have a conversation with Richard
17 Bockelmann at or about that time?

18 A Yes, I called him on the phone.

19 Q Was Bockelmann related to you in some way
20 at that time?

21 A Brother-in-law.

22 Q Would you tell us your conversation with Mr.
23 Bockelmann?

24 A The same thing Clausi told me, bring the truck
25 down to Hudson Cement, which we did.

Q What happened next?

1 ewb-11

Kozlowski-direct

2 A Two-thirty in the morning.

3 Q Did there come a time when you received another
4 request to haul a load to Windham?

5 A Yes.

6 Q When was that?

7 A Seven o'clock the next morning.

8 Q What happened at 7:00 o'clock the next morning?

9 A Tom Clausi called me and he requested trucks
10 and drivers, they were going to make another load.

11 Q Did he say anything else in that conversation?

12 A No.

13 Q What did you do after that conversation?

14 THE COURT: I would like to know what you said
15 to him when you got back at 2:30 in the morning --16 THE WITNESS: I can't say, Judge. I called
17 the drivers.

18 Q Do you remember which drivers you called?

19 A I believe it was Bockelmann, Forte, Stewart,
20 that's all I remember.21 Q Do you recall what your conversations were with
22 them?

23 A To make a load to Windham.

24 Q Do you recall what they said?

25 A They said all right.

ewb-16

Kozlowski-direct

A Yes.

Q Did you see whether or not Mr. Daley was present on Saturday, September 4, when you got up to his camp?

A Yes, he was.

Q Do you remember what he was doing?

A Working around directing things.

Q Would you look at Government Exhibit 4, the photograph that you have in front of you, and mark on that exhibit in a green pen where you dumped on the day of September 4.

THE COURT: A different place?

(Witness complies.)

Q Did there come a time, Mr. Kozlowski, when again someone asked you to make a haul up to Windham?

A Yes, there was.

Q When was that?

A The following Friday afternoon.

Q That would be Friday, September 10, is that right?

A The 10th, yes.

Q Who was it who asked you that?

A Tommy Clausi.

Q Where did this conversation occur?

A New York State Thruway.

ewb-17

Kozlowski-direct

1 Q On the Callanan job?

2 A Yes.

3 Q What did Mr. Clausi say to you and what did
4 you say to him?

5 A He told me we needed more loads up to Windham
6 and to load at night and we'd take them up in the morning.
7 I said to him we are going up, we are going up real early
8 in the morning because I had work to do on the trucks,
9 so that's what we did, we loaded at night and I parked in my
10 yard.

11 Q On these hauls, who was furnishing the fuel for
12 your trucks?

13 A I was.

14 Q Did you know on September 10th whether anyone
15 was fueling up their trucks at the Callanan job?

16 A Not on September 10th, no.

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20 (continued on next page.)

21 End 2B PM
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Kozlowski-direct

716

Q Who was this conversation with?

A Tommy Clausi.

Q What did he say to you and what did you say to him?

A We was on our way back. We were in the International and we was on our way back to the bus and when we were coming out of D.C. he come to my seat and he said, "Ted Daley would like to have some railroad ties."

I told him I don't know where to get any railroad ties.

So I suggested he go to the front of the bus and talk to Eddie Hahn, who was shop steward for Maggiola Construction and maybe he could get some 12 x 12s.

Bob went up front, talked to Hahn, came back to the seat and he said "Hahn is going to see what he can do."

And we went home.

Q Did there come a time after that when you had another conversation concerning hauling wood?

A Yes. I went to work in the first part of October on the Thruway at 7:00, a quarter to 7:00, and Clausi told me to go to Pearl River to pick up 12 x 12's out of Maggiola's yard.

Q And what did you say to that?

gwb-9

Kozlowski-direct

718

1 MR. NEWMAN: No.

2 THE COURT: It is admitted in evidence.

3 MR. WOHL: It goes south down to Bronx County
4 and north is Green County, Albany County line.

5 THE COURT: Is that the Hudson River?

6 MR. WOHL: Yes.

7 (Government Exhibit 4 was received in
8 evidence.)

9 xxx Q Still using the green pen, Mr. Kozlowski, would
10 you trace your trip from Kingston to Pearl River.

11 (Witness writes.)

12 THE COURT: Is that the Thruway?

13 THE WITNESS: Yes.

14 THE COURT: Here is Spring Valley. Where is
15 Pearl River?

16 THE WITNESS: I stayed on the Thruway until I
17 got to the exit. Here is where I got off.

18 THE COURT: Pearl River is approximately
19 opposite Tarreytown on the other side of the river, right?

20 Q At Pearl River, would you tell us what happened?

21 A I was told to ask somebody for these beams.

22 Q Who had told you that?

23 A Tom Clausi.

24 Q What did you do when you got to Pearl River?

1 6 ewsr Kozlowski - cross

2 A Yes.

3 Q Sir, insofar as the procedure was concerned,
4 Mr. Wohl asked you about getting jobs, isn't that right,
5 sir?

6 A Yes.

7 Q Are you familiar with the Dodge reports?

8 A I have a vague memory, yes.

9 Q Did you ever subscribe to the Dodge reports?

10 A No.

11 Q Sir, in the course of your experience as an
12 owner-operator driver-operator, whatever the terminology
13 is, have you had occasion to go out and look for jobs
14 yourself from contractors?

15 A Yes.

16 Q As a result of it, have you gotten jobs from
17 contractors?

18 A Yes.

19 Q Mr. Wohl asked you about the poeple who
20 worked for you, your drivers who work for you from time
21 to time?

22 A I am not an employer no more.

23 Q I am sorry, sir, I meant in 1971.

24 A Yes.

25 Q 1972?

7 ewsr

Kozlowski - cross

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A Yes.

3

Q Those were drivers that you would use over and

4

over again?

5

A Yes.

6

Q You would give them first preference, so to

7

speak, when you got a new job?

8

A Yes.

9

Q Would they be gentlemen like Mr. Brennan?

10

A Yes.

11

Q You also told us about a Mr. Bockelmann, did

12

you not, sir?

13

A Yes.

14

Q Mr. Bockelmann is -- I am sorry, just refresh

15

my memory. Did you tell us he was your brother-in-law?

16

A Yes.

17

Q Did you have occasion during 1971 and 1972

18

to use Mr. Bockelmann's service?

19

A 1971 and 1972? Not that I recall.

20

Q Did he have occasion to drive on any jobs

21

with you?

22

A He drove on the same jobs.

23

Q But he didn't get that job through you?

24

A No. He got it himself.

25

Q Insofar as the setup of the union was con-

1 8 ewsr Kozlowski - cross
2 cerned, there was a shop steward and a business agent,
3 right?

4 A Yes.

5 Q If you would get a call to go to a particular
6 job to start working, would you receive that call from
7 the business agent of the area?

8 A Yes.

9 Q Am I also correct, sir, the business agents
10 would be set up to cover each geographical area within
11 the union's control?

12 A Right.

13 Q So that, I think you told us before but bear
14 with me, Mr. Alecca was the man who controlled your
15 area?

16 A Right.

17 Q He would tell you what jobs to go on?

18 A Yes.

19 Q He would also, I assume, tell Mr. Spada what
20 jobs -- is Mr. Spada in the same area you were in, sir?

21 A Yes.

22 Q He would tell Mr. Spada, right?

23 A Yes.

24 Q Did you have occasion in addition to this to
25 bid on jobs?

1 9 ewsr Kozlowski - cross

2 A There wasn't in 1971.

3 Q Did you in 1972, sir? As a result of these
4 bids did you receive a job or jobs in 1972?

5 A One.

6 Q There came a time in September, 1971, that
7 I think you told us that Mr. Clausi spoke to you about
8 taking some material up to Windham, isn't that right?

9 A Yes.

10 Q The first conversation he had with you,
11 was that on a Friday night, sir?

12 A Yes.

13 Q Was that in person or over a phone?

14 A Over a phone. He just called me to go to
15 Hudson Cement, over the phone.

16 Q He didn't tell you at that time what it was
17 for, did he?

18 A No.

19 Q Did he threaten you at that time?

20 A No.

21 Q I believe you told us you then went to Hudson
22 Cement?

23 A Right.

24 Q You told us about loading up, isn't that
25 right?

1 16 ewsr Kozlowski - cross

2 A No.

3 Q When was the first time you were told you
4 were going up to Windham?

5 A When I pulled up to the scale empty.

6 Q Were you told at that time where in Windham
7 you were going?

8 A Mr. Daley's camp.

9 Q And Clausi told you this?

10 A Right.

11 Q By the way, in the period of time that you
12 know Mr. Clausi, has he had occasion to use people's
13 names as being the source of the orders he receives?

14 MR. WOHL: Objection.

15 Q If you know.

16 THE COURT: Overruled.

17 Do you understand the question?

18 THE WITNESS: Not fully.

19 Q In your experience with Mr. Clausi, did
20 he have occasion to say "Tony LaRocca said you should
21 do this, would you do that"?

22 A Yes.

23 Q Did you later, on occasion find out, as we
24 say, that he was using the name in vain, that he
25 never had that kind of permission?

End 4A

5 gwsr

Sutton - direct

780

1

2

A I went in the Teamsters back about 1949.

3

Q As a member of the Teamsters union what was your occupation?

4

5

A Chauffeur.

6

Q In September of 1971, how were you employed?

7

A I was employed by the Callanan Road Improvement Company.

8

9

Q And what job were you working on?

10

A New York State Thruway.

11

Q And what were you doing on that job?

12

A Driver, chauffeur.

13

Q What were you driving?

14

A Ten-wheeler dump truck.

15

Q Who were you driving the dump truck for?

16

A The truck belonged to Spada but I was on the Callanan payroll.

17

18

Q Is that Michael Spada?

19

A Michael Spada, right.

20

Q Is that Michael Spada, Sr.?

21

A Yes, Sr.

22

Q Now, did there come a time while you were working on that job that you were told to make an extra haul after work?

24

25

A Yes, on a Friday night.

6gwsr

Sutton - direct

1

2

Q And who told you this?

3

A Tommy Clausi.

4

Q And when did this conversation occur,

5

approximately?

6

A Just as we was parking the trucks after work,

7

just as we were getting through work.

8

Q What time would that have been?

9

A 4:30. Twenty after four and 4:30.

10

Q Now, in substance, what did Mr. Clausi say

11

to you and what did you say to him?

12

A He told me I had to make a trip to the

13

mountains with a load of stone, and I said "For what?

14

I just got through putting in eight hours. I don't want

15

to go to the mountains."

16

He said, "You will either go to the mountains

17

or be looking for a new job."

18

Q Did he tell you specifically where you were

19

going in the mountains?

20

A He said I was going to take a load of stone

21

up to Mr. Daley's summer home.

22

Q Did he tell you what area of the mountains?

23

A In the Windham area.

24

Q What did you do after this conversation with

25

Mr. Clausi?

7 gwsr

Sutton - direct

1
2 A I parked the dump truck, went home, had
3 supper, talked to my wife, and I decided -- my wife and I
4 decided --

5 MR. NEWMAN: Don't tell us what you decided.
6 Tell us what you did.

7 A Then I made the trip to the mountains.

8 Q Was there anything specific that you did as
9 a result of the conversation with your wife?

10 A That's the reason I went to the mountains
11 after the conversation with my wife.

12 Q Now, after you left home, where did you go?

13 A I went down to Spada's garage, picked up a
14 truck and went to the mountains.

15 Q Was that truck empty at the time you picked
16 it up?

17 A No, it was already loaded.

18 Q What was it loaded with?

19 A Some type of road material. To tell you the
20 truth, I don't know what was on the truck. I didn't
21 pay that much attention.

22 Q While you were at Mr. Spada's garage, did you
23 have a conversation with Mr. Spada, Sr.?

24 A Yes, I did. I still was griping about the
25 idea of having to make that load up to the mountains for

8 gwsr

Sutton - direct

nothing, and Mr. Spada said to me, "You would be better off making the trip and keeping your mouth shut. At least you are working."

Q And what did you do after this conversation with Mr. Spada, Sr.?

A I just got in the truck and when the trucks were ready to go I left. I followed one of the other trucks because I didn't know how to get there.

Q How many trucks did you drive up with to Windham?

A There must have been ten or twelve of us.

Q And when you arrived in Windham, what did you do?

A Before we got into Windham one of the drivers, Bob Kozlowski, he was parked at the side of the road to tell us which turn to make and how much further up we had to go in the mountains to get to the house because we were never up there before. I was never there before.

Q Did you arrive at the house?

A We arrived at the house, dumped the load and returned back to Kingston.

Q What time did you arrive back in Kingston?

A Somewheres between three and four o'clock in

9 gwsr

Sutton - direct

784

the morning.

Q So about how long did the entire trip take you?

A Roughly around eight hours.

Q And were you paid for your services on this trip?

A Indeed not.

Q Mr. Sutton, at the time you were told by Mr. Clausi that you had to make these trips to haul stone to Mr. Daley's house --

MR. NEWMAN: Objection to the word trips.

THE COURT: I think you used the plural. So far as I understand, it is singular.

MR. HANDAL: That is true.

Q At the time you made this trip at the instruction of Mr. Clausi, what were your reasons for going?

A I was afraid if I didn't go I would lose my work. I needed the job.

Q And what did you believe would happen if you didn't go?

MR. NEWMAN: Objection, Judge.

THE COURT: Sustained. I think he has already answered the question.

MR. HANDAL: No further questions.

Tk.1B

5 lhr

Sutton - cross

789

1
2 "Mr. Daley's home in Windham"?

3 A That's right.

4 Q No question in your mind about it?

5 A No question whatsoever.

6 Q He told you that it was stone also, right?

7 A He didn't say stone, he said material.

8 Q Did he tell you what would happen to you?
9 Give us the exact words that you used with you when
10 you raised the question about driving?

11 A He told me if I didn't make the trip, I may be
12 looking for a job.

13 Q That's the words he used to you?

14 A That's the words he used.

15 Q There came a time that you got back to the
16 Spada garage, sir, is that right?

17 A Right.

18 Q I think you told us you told Mr. Spada that
19 you were unhappy about driving up?

20 A True.

21 Q What did Mr. Spada say to you, sir?

22 A He told me I am to go along with it and
23 save myself a lot of grief and headaches and trouble.

24 Q Was anybody present when Mr. Spada told you
25 that?

6 lhr

Sutton - cross

1

2

A Must have been somebody around.

3

Q Do you know who it was?

4

A Offhand I wouldn't be able to mention the name.

5

Q At that time do you know who the business

6

agent was for that area?

7

A Junior Alecca.

8

Q Did you call Mr. Alecca to complain to him

9

in any way, shape or form about this?

10

A It wouldn't do any good to call Alecca.

11

Q But did you?

12

A No, I didn't.

13

Q Did you call Mr. Daley to complain to him

14

about this?

15

A No, I didn't.

16

Q Did Mr. Daley ever ask you to do anything

17

for him?

18

A Never.

19

Q After that Friday night that you drove up,

20

did Mr. Clausi ever ask you again?

21

A He never asked me a second time.

22

Q Did Mr. Spada ever ask you?

23

A No.

24

Q By the way, you worked the next week, did you

25

not, on the Callanan job?

1 7 lhr Sutton - cross

2 A I think I worked two days the next week.

3 Q Was Mr. Clausi the shop steward on the job?

4 A He was.

5 Q Did he at that time ask you about driving
6 another load up on the following Saturday?

7 A No, because I made the remark that I wouldn't
8 make another load if it cost me my job.

9 Q Whom did you make that remark to?

10 A Five or six of the drivers that was on the
11 road with us.

12 Q Did you make that remark to Mike Spada?

13 A I could have.

14 Q Sr.?

15 A I could have, yes,

16 Q Mike Spada, Jr.?

17 A That's possible too. He worked there.

18 Q Frank Maone?

19 A Frank Maone was on the job. Could have.

20 Q Harley Williams?

21 A Possible.

22 Q Now, sir, after making that remark that you
23 just told us about, the following week did you work?

24 A Not after that, no.

25 Q After you made that remark, you didn't work any

8 lhr

Sutton - cross

792

1
2 more?

3 A Like I said, I worked two days the following
4 week and then we were laid off. Then I didn't go back to
5 work.

6 Q In other wrods, you then went out and got the
7 salvage job, is that the idea?

8 A Right.

9 Q So that I understand you correctly, two days
10 that you worked during the week beginning September 6,
11 you worked two days during that week, right? Do you
12 remember whether you worked before or after you made the
13 remark?

14 A I worked after I made the remark.

15 Q You worked for Mr. Spada after you made that
16 remark, right?

17 A I worked for Mr. Callanan, drove Mr. Spada's
18 truck.

19 Q That's the same job that Mr. Spada had given
20 you originally in '71?

21 A Mr. Spada didn't give me that job in '71.
22 I drove Spada's truck and I was on Callanan's payroll.

23 Q Who gave you that job in '71, sir? In
24 September of 1971.

25 A I started out on that job driving a Kozlowski truck.

1 8 gwsr

Kozlowski - redirect

2 Q Did he say that in response to your saying
3 in substance that you would like your trucks to be
4 working?

5 A Yes.

6 Q Back in 1971, I believe you told us on cross-
7 examination that Mr. Daley did not threaten you at all
8 in connection with your trips to take the stone up there,
9 is that right?

10 A You are correct.

11 Q And you told us Mr. Clausi did not threaten
12 you, is that right ?

13 A Right .

14 Q Why did you take the hauls of stone up to
15 Windham?

16 MR. NEWMAN: Objection, if your Honor please.
17 Improper redirect.

18 THE COURT: Overruled.

19 A Well, I felt at that time that for my
20 drivers' sake I didn't want to see them have any hard
21 feelings with the union over it.

22 Q What did you think might happen if you just
23 completely refused to go ahead and take the stone up
24 there?

25 MR. NEWMAN: Objection.

1 9 gwsr

Kozlowski - redirect

2 THE COURT: Overruled.

3 A Well, I honestly believed some of them may
4 lose work.

5 Q Have you ever run for any union office?

6 A No.

7 Q Have you ever actively participated in the
8 politics in Local 445?

9 A No.

10 Q Does the difference between hauling by the
11 hour and hauling by the ton, or is there any difference
12 between those two methods of hauling to the drivers
13 or to you as a driver?

14 THE COURT: You mean how much pay you get
15 or what?

16 Q Either how much pay you get or in the
17 desirability of that kind of hauling from the drivers'
18 point of view.

19 MR. NEWMAN: I object to the form of the
20 question. It is leading, suggestive and speculative.

21 THE COURT: Either the witness can answer
22 it or he can't. It isn't leading.

23 Is there a preference you have as to a
24 driver on a per hour basis or a tonnage basis?

25 End. Tk. 3B THE WITNESS: I would rather work by the hour.

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JUL 12 1977
U.S. ATTORNEY
SO. DIST. OF N.Y.

W. FINE JR.